

Elizabeth France  
Chair  
Office for Legal Complaints  
Baskerville House, Centenary Square  
Board Street  
Birmingham  
B1 2ND



15 January 2010

Dear Elizabeth

Thank you for your letter of 9 December 2009 asking for our comments on your ideas for the transitional arrangements to support the successful establishment of the Legal Ombudsman.

Overall, the Consumer Panel is content with the proposals in your letter. We offer some brief comments in support of our position below.

### **Resolution of existing complaints**

The proposal is that approved regulators should aim to complete work on outstanding complaints no longer than six months after the Legal Ombudsman go-live date (anticipated to be 1 October 2010). Outstanding complaints after this time will be escalated to the Office of the Legal Services Ombudsman (OLSO). When the current post-holder's term of office expires on 2 March 2011, it is proposed that an acting ombudsman is appointed to oversee this work.

The key issue is whether the Legal Ombudsman should take on existing caseload or start with a 'blank account'. We are persuaded that the latter approach best serves the consumer interest, for two reasons.

First, experience from other sectors suggests that backlogs can quickly develop when a new scheme simultaneously takes on both old and new work. It would be unfortunate if new complainants received a substandard service due to problems caused by dealing with what might be a relatively small number of old complaints. We are mindful that first impressions count: backlogs have previously bedevilled complaints systems for solicitors and it would be regrettable if the reputation of the Legal Ombudsman suffered enduring damage for the same reason.

Second, the Legal Complaints Service (LCS) is a very different organisation now from what it used to be. A number of factors, including the new Board and senior management team at the LCS, and the work of the Office of the Legal Services Complaints Commissioner, have led to a turnaround in performance such that it now benchmarks favourably compared to ombudsman schemes in other sectors across a range of metrics. It is appropriate to focus on the LCS given the sheer

volume of complaints it deals with compared to arrangements in other parts of the legal sector. There would be a stronger case for the Legal Ombudsman to take on existing caseload if the LCS was performing poorly, in order to ensure that consumers currently experiencing problems with lawyers were able to achieve satisfactory redress, but the good performance levels of the LCS means that this problem does not arise.

Giving approved regulators six months after the Legal Ombudsman go-live date and transferring any outstanding complaints to the OLSO is a sensible and pragmatic solution. It will be important to ensure that consumers are kept fully informed about how their complaint is being dealt with, especially given the variety of organisations with apparently similar names. We would also look for assurance from approved regulators that they will resource this remaining work appropriately so that only a small number of complaints need to be transferred to the OLSO. The appropriate regulatory body should monitor the approved regulators' performance in this respect.

### **Transfer of staff from existing complaints handling bodies**

It would not be appropriate for the Consumer Panel to comment on employment law matters as this falls outside of our jurisdiction. However, despite the progress made by the LCS, it is essential to maintain consumer confidence that the Legal Ombudsman is not the LCS rebadged – a key Government commitment during the passage of the Legal Services Act. We are also concerned about the adverse consequences for consumers that might result should legal challenge by the Law Society go ahead or the threat of it continues for a prolonged period.

Continued uncertainty for staff at the LCS, especially at this late stage in the transition timetable, will likely contribute to higher attrition rates of staff than might otherwise be expected. A reduction in case handling staff beyond expected levels will place under threat the ability of the LCS to manage its caseload to a satisfactory standard. We also suspect that the prospect of legal action can only distract senior managers at the LCS from their core task of ensuring that consumer complaints continue to be properly dealt with.

The potential legal challenge is also likely to impact negatively on the ability of the Legal Ombudsman to get off to a good start, if it does not know when it can begin work or what staff it will have at its disposal. Reporting of these problems in the media will not inspire consumer confidence in the new arrangements, regardless of what the true picture in terms of service levels actually is.

Whilst we do not comment on the substantive issues at dispute, we would like to see a speedy resolution of the dispute in the interests of consumers.

I look forward to discussing these matters with you further when I attend your Board meeting on 22 February.

Yours sincerely



Dr Dianne Hayter  
Chair, Legal Services Consumer Panel