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The logo for the Legal Services Consumer Panel is located in the top right corner. It consists of a blue circular shape on the left and a blue rectangular shape on the right. The text "LEGAL SERVICES CONSUMER PANEL" is written in white, uppercase letters within the blue shapes. "LEGAL" and "SERVICES" are stacked vertically in the circle, while "CONSUMER" and "PANEL" are stacked vertically in the rectangle.

LEGAL
SERVICES
CONSUMER
PANEL

Dear Janet

Legal Ombudsman consultation on 2016-2017 draft budget and draft key performance indicators

The Legal Services Consumer Panel is grateful for the opportunity to respond to this consultation and we will focus our response on the development of next year's key performance indicators (KPIs).

Whilst we recognise that KPIs can be framed at a number of different levels, the KPIs included in the consultation are pitched at such a level that they do not offer sufficient insight into how LeO will measure its performance and be held to account. We would therefore encourage publication of performance against a wider basket of measures, not just the five high-level KPIs.

Borrowing from our response to an earlier consultation on proposed KPIs the following remains true, and should be borne in mind as LeO redevelops its KPIs:

It is important that consumers have clear expectations when entering the scheme about the service levels they can expect and an explanation should the service they receive fall short of these promises. The Panel recognises that KPIs can be missed due to reasons outside of the organisation's control, e.g. complainants or providers not responding to correspondence. However, we would welcome consideration of how the Legal Ombudsman can appropriately keep individual users up-to-date if quality or timeliness targets are not delivered. We recognise this has to be implemented in a proportionate way; an overly-bureaucratic system would put more pressure on KPIs.

Against this backdrop we would like to offer the following thoughts in answering question 3: Do you agree that the KPIs we are proposing for 2016-17 are the right ones?

The Panel has previously stated that, as LeO has become more firmly established, it deserves more challenging, albeit realistic, KPIs to replace the existing measures. Having been involved in discussions on the original set of KPIs in 2011, and having responded to last year's strategy and budget consultation with some initial suggestions, it is disappointing that the Panel hasn't been engaged in developing the current set of KPIs. Whilst we understand that LeO is currently reviewing research around customer feedback – and welcome its

plans to use this to frame future KPIs – the measures set out in the consultation lack a consumer focus.

For reference, our initial thoughts as set out in early 2015 were as follows:

- **Timeliness** – from July 2015, certified ADR schemes will be expected to resolve all complaints within 90 days of the complaint file being complete. While the Legal Ombudsman will wish to continue to set its own challenging timeliness targets over a series of time intervals, it should also report against this measure.
- **Quality** – the current indicators feel light on quality and place too much weight on user perceptions. Although user views are an important part of this, we would expect to see internal checks on quality incorporated within this KPI set.
- **Fairness** – the data suggests that user perceptions of fairness of decisions are more closely tied to case outcome in LeO than in other schemes. While the nature of legal services may help explain this, things can be done to reassure users who don't get the outcome they wanted that they have received a fair hearing, for example greater transparency of decisions. Setting targets for case outcomes would risk creating perverse incentives, however we consider there is value and scope in measuring user perceptions of fairness and the reasons beyond outcome that influence those perceptions.
- **Diversity** – attracting a diverse user base should be a key priority to demonstrate that the service is accessible to all. While it may be inappropriate to set targets here (as this will depend to an extent on how well first-tier mechanisms work), this is at least an important area to monitor. Similarly, it is important to monitor any signs of discrimination in decisions (we do not suggest there is a problem, but there must be external vigilance) and investigate any patterns of dissatisfaction within specific social groups, such as BME.

We recognise that KPIs are required for cost, timeliness and volume of complaints as a bare minimum. However, in line with best practice of other ombudsman schemes, and in the interests of being a beacon of openness and transparency in the legal services market, we would expect to see additional KPIs which focus on quality, fairness and diversity – echoing the sentiments above that while diversity is not suited to targets, it is an effective measure for monitoring access of service.

The KPIs as set out in the consultation are basic. While you can achieve clarity in brevity, the risk is that the proposed KPIs lack depth. Previously we have recognised that LeO recorded the timeliness of a case as starting from when it was received, rather than when it was accepted by casework teams. This is an appropriate measure as it reflects the consumer perspective of timeliness. From the draft KPIs as set out in the consultation however it is unclear where the measures begin and end, and there is no apparent resolution target for 100% of cases (where historically it has been 365 days).

While we understand that LeO is not at this time pursuing certification as an ADR entity, if this is an option for future then we would expect to see advance planning by incorporating the necessary KPIs which reflect the requirements of the regulations. Many of these requirements are already met but are not reported by LeO and other existing ADR providers, though they should be demonstrated. For example, any evidence of systemic or significant problems that occur frequently and lead to disputes between consumers and traders. This would support LeO's operational objective to *disseminate what we learn more widely* and is, to a limited degree, already being fulfilled through thematic reports. As such we would

like to see it captured in the proposed KPIs. LeO has a vital role in guiding the profession and sharing its insight to demonstrate what good service delivery looks like, and what service issues are most likely to give rise to complaints.

Lastly, it is unclear from the consultation paper whether or not these KPIs are being designed to serve LeO beyond 2016-17. This is important to ensure there can be consistent monitoring of performance from this strategy to the next. The Panel remains aware and mindful of the recent challenges LeO has faced, and the impact this has had on its structure and performance. However, a vital element in getting back on track will be to have consistent KPIs against which LeO can chart its progress, and continue to demonstrate how well it can deliver.

If you have any questions please contact our Panel Associate, Stephanie Chapman.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Elisabeth Davies', with a stylized flourish at the end.

Elisabeth Davies
Chair