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Dear Janet

### **Strategy 2013-2016 and Business Plan 2013-2014**

The Legal Ombudsman's proposed plans for the next period in large degree represent business-as-usual. The focus on continuity means the Panel's consultation response can be relatively brief compared to the more detailed submissions we have made in previous years.

We welcome the commitment to explore a voluntary jurisdiction. This has been given greater urgency by the Legal Services Board's decision not to make estate administration a reserved activity; this market is an obvious first target for such a scheme, but there are others. Other drivers include: the OFT's analysis that gaps in redress cause confusion and hit consumer confidence; the ADR Directive which also highlights the need to complete coverage of redress across markets, building on existing schemes where possible; and the new approved consumer codes regime to be introduced by the Trading Standards Institute from April, which should create fresh impetus for self-regulatory initiatives. The Legal Ombudsman must make real progress this year as the same commitment to explore a voluntary jurisdiction was made last year but has not greatly moved forward.

Likewise, we welcome the strong focus on improving accessibility to the scheme, including by dismantling barriers to currently underrepresented groups. The consultation document references existing work in this area, but details of these initiatives have yet to be published. Annex B includes a firm commitment to publish data on customer demographics, outreach and engagement activity and other aspects of your equality and diversity performance. The organisation now has sufficient data about complainants to begin this greater transparency straightaway. In addition, we suggest it should develop a Key Performance Indicator relating to equality and diversity. These concerns are rightly central to its vision statement and it is important to measure the Legal Ombudsman's performance in this area. Moreover, following representations by the Panel, the Legal Services Board has agreed to invite the regulators and the Legal Ombudsman to demonstrate how they have incorporated BS18477 (a British Standard on

inclusive service provision) into their work. The Panel has previously written to the Legal Ombudsman urging it to adopt the standard and we repeat this call now. The Legal Ombudsman is the organisation in the regulatory arena with the most direct contact with consumers and adopting the standard would signal its commitment to equality and diversity.

The consultation document rightly emphasises the unique position that the Legal Ombudsman has to use complaints intelligence to raise standards in the profession. There are some general commitments to continue thematic reviews, conduct research and share data with the approved regulators. These touch the right areas, but there needs to be some specifics behind them; to this end we would encourage the Legal Ombudsman to develop and publish a sub-strategy to underpin this core element of its work. In this vein, the Panel will shortly provide advice to the Legal Services Board on what regulators should be doing to help empower consumers. Our second background paper discusses the Legal Ombudsman's role here; we hope it will incorporate our findings to inform its final plans.

Also welcome is the focus on refining and improving the way it handles complaints. It is of course correct that the Legal Ombudsman should not be 'quick at all costs' but complainants should be able to expect resolution of complaints both to be speedy and of high quality. We encourage the Legal Ombudsman to be self-reflective and up front about specific areas of performance it wishes to improve, as again the consultation document talks in very general terms. In this context, it will be important to learn from the results of its customer satisfaction work. While case outcomes will inevitably shape perceptions of service levels, there are some aspects of performance which were less well rated by consumers and providers alike, for example around staff understanding the nature of the complaint and being kept informed of progress. The data suggests many complainants also find the organisation's written communications difficult to understand.

Some approved regulators have expressed concerns to us about the flow of data between the Legal Ombudsman and them. These issues, which were referenced in the Triennial Review report, are acknowledged on page 37 of the consultation document. The document also suggests that flows of data in the other direction are not working as well as they should. Clearly it is vital that potential misconduct is accurately identified as such, and good quality service complaints data is shared with the regulators in a timely way to inform risk-based regulation. The approved regulators have asked the Panel to make this a topic for discussion at one of our first Regulators' Forums – this issue needs to be addressed in 2013-14. More widely, the Panel is aware that the design of the current electronic case management system does not always allow easy analysis of data for policy analysis. We note that the Legal Ombudsman is preparing to update its IT infrastructure, and we urge it to make this a key success criterion for this work.

We are surprised that the strategy does not include provision to review the scheme rules. While such a review has only just been completed, it will be important to regularly assess and fine-tune the rules to respond to the changing external environment and the Legal Ombudsman's evolving jurisdiction. For example, within the next two years it will have experience

of handling complaints about claims management companies and received complaints from prospective customers for the first time. It must also fulfil its commitment to develop a specimen list of third party complaints; the Panel looks forward to participating in a steering group which the Legal Ombudsman has said it will establish to take this work forwards. Moreover, a stated aim of the last review was to harmonise arrangements with other ombudsman schemes, so a regular review will be necessary to respond to changes implemented in other sectors. The ADR Directive, which is expected to come into effect in 2015, may require the Legal Ombudsman to adjust its scheme rules, for example to enable it to comply with shorter time periods for dealing with complaints. The Directive should also prompt consideration of introducing a collective claims procedure.

Finally, the ADR Directive, the OFT's recent report on the legal profession and other research should prompt wider reflection across a wide range of stakeholders about the future direction of consumer redress both inside and outside of the legal services sector. The bundled provision of legal and non-legal services sits at odds with the separate regulators and redress mechanisms in operation in individual markets. This is confusing for consumers and an added cost for business, so there should be a shared desire across stakeholders to think more strategically. It is important that consumer bodies are represented in such discussions.

Please contact Steve Brooker, Consumer Panel Manager, for enquiries in relation to this submission.

Yours sincerely



Elisabeth Davies  
Chair