



Legal Services Consumer Panel meeting minutes

Date: 07 November 2018
Time: 13:00-17:00
Venue: One Kemble Street, London WC2B 4AN

Present:

Sarah Chambers	Chair
Adam Cooper	Member
Andy Foster	Member
Cathy Gallagher	Member
Michelle Goddard	Member
Frances Harrison	Member
Mark McLaren	Member
Marlene Winfield	Member
Lola Bello	Consumer Panel Manager
Laurentiu Ciocan	Consumer Panel Associate
Ramandeep Bhatti	Legal Services Board (Minutes) (Items 1-9)
Rebecca Marsh	Legal Ombudsman (Item 5)
Alex Moore	Legal Ombudsman (Item 5)
Peter James	ICAEW (Item 9 only)
Stephen Mayson	UCL (Item 10 only)

Item 1 – Welcome and apologies

1. The Chair welcomed the Legal Services Consumer Panel (the Panel).

Item 2 – Declaration of interests

2. None.

Item 3 – Minutes of 26 September 2018 meeting

3. The Chair presented the minutes from 25 April 2018.
4. It was noted that Andy Foster needed to be added to the list of Present Members.

The Panel noted the minutes from 26 September 2018.

Item 4 – Matters arising

5. All points from 26 September meeting had been actioned with the exception of inviting Ministry of Justice (MoJ) to attend the Panel meeting annually.

ACTION: Invite MoJ to annually attend the Panel meeting.

Item 5 – Discussion with Rebecca Marsh, Chief Legal Ombudsman

6. The Chair welcomed Rebecca Marsh and Alex Moore from the Legal Ombudsman (LeO).
7. Rebecca Marsh gave a presentation on LeO's progress against its 2018-19 priorities, business planning 2019-20 and the Panel areas of interest, during which the following points were raised:
 - Rebecca Marsh said that with regards to performance, there are still challenges, but LeO is on track with clearing its legacy cases by March 2019. The new case system is working well and LeO has introduced a number of new initiatives, one of which is that Level 2 Ombudsmen will help at the front end of the process to spot issues such as vulnerability, and any other challenges. This will ensure that people who need the attention get it faster. Rebecca Marsh said they will stop using the old system by mid-November, and staff will begin to work across one system.
 - In a question relating to the average time it takes to deal with complaints, Rebecca Marsh said that it takes up to 90 days before investigation starts. It takes 90 days for low complexity cases to be resolved 180 days for medium complexity cases, and 365 days for high complexity cases. She noted that the target is to complete 60 per cent of cases in 90 days, and at the moment they are doing significantly better and are at roughly 85 per cent, but statistics for the new system cannot be measured as the switch has only just happened.
 - With regards to the time-lag between a case coming in and investigation starting, Rebecca Marsh said that people are more tolerant if they are kept up to date with timescales. She said it has been helpful to keep a log of timescales to manage expectations and give consistent information about wait times.
 - Rebecca Marsh informed the group that there is a big internal staff development programme in place and all this change means there are challenges to work through, but the hope is that the end result will be better management of caseloads. LeO is doing as much work on this as they can between now and March.
 - In relation to wait times Rebecca Marsh advised the wait times need to be reduced, from roughly 47 days to ideally 14 to 21 days.
 - Rebecca Marsh outlined the need to be clear with people and ensure that they understand what they are going to get from the process. This will result in a better experience and resolve things quicker.
 - Rebecca Marsh said her personal vision is to teach the organisation to think about how to engage better so as to get to the right place.
 - In relation to improving data quality, analysis and feedback to the profession, Rebecca Marsh said standard setting needed to be shared with the sector properly.
 - Against the priority of improving quality of service by implementing an internal learning and feedback model, Rebecca Marsh mentioned that LeO is now engaging at earlier points of complaint rather than at the end. Against the priority of digitising, LeO is refreshing its website, a new complaints system is now in place and while they are seeing the benefits of this, they need more activity to come through the new system to judge its effectiveness.
 - Rebecca Marsh said LeO's focus for next year will be on quality of performance by making good decisions and delivering customer service which results in trust and confidence.

- In relation to the SRA's handbook changes and unregulated providers and consumers, Rebecca Marsh said LeO's focus is on practicalities, and they are working with the SRA to go through some cases. Rebecca acknowledged there will be practical challenges to overcome and they would need to get this right quickly before volumes start to come through.
- Rebecca Marsh said work is being done on publishing decisions, there is a lot more information up in terms of what is already being published, and they want to get to a point where they can publish Ombudsman decisions, but want this to be right, consistent and helpful.
- The Panel made the point that LeO's signposting guidance could be clearer where it referred to time limits. There were other points in the guidance that could be expressed in a more effective way.
- In relation to benchmarking against other Ombudsmen, Rebecca Marsh mentioned that LeO does not benchmark against other Ombudsmen.
- Alex Moore said that LeO's business plan consultation will run from mid-December until the end of January. She said she would like to have additional meetings with the Panel over the course of next year.

8. The Panel thanked Rebecca Marsh and Alex Moore for their presentation.

The Panel noted the update from the Legal Ombudsman.

Item 6 – Chairs report and members update

9. The Chair presented her report on recent meetings.
10. In addition to her report, the Chair shared the actions and fed back on the meeting earlier that day between a selection of members of the Panel and of the LSB. She said it was a good meeting, the conversation was engaging, and in particular the LSB Chair asked whether the Panel could carry out some cross sector analysis on how other Ombudsmen models work.
11. The Panel noted this could be a substantive piece of work. It was noted that Steve Brooker (former Panel Manager) produced some work a few years ago and it might be worth getting in touch with the Ombudsman Association. The Panel Manager advised that the LSB could commission the Panel to carry out this work and put forward a proposal.
12. Michelle Goddard shared that she attended the Professional Paralegal Register conference on 12 October, she sat on the panel for the session that discussed 'Helping consumers choose paralegals'. Panel Member Mark McLaren thanked Michelle for taking his place at short notice.
13. Marlene Winfield and the Panel Associate attended a roundtable organised by CILEx Regulation; details are in the Projects Update paper. Marlene Winfield and the Panel Associate will circulate notes. Richard Moorhead was also at the roundtable, and it was suggested that he should be invited to a Panel meeting when the work on technology gets started. It was noted that Helen Whiteman, Chief Executive of CILEx Regulation, had asked informally if the Panel would be interested in developing a glossary on legal technology.

ACTION POINTS:

- **Find Steve Brookers benchmarking work**

- **Mark McLaren to arrange meeting with his contact at the Ombudsman Association.**
- **Invite Richard Moorhead to a Panel meeting once work on technology has started.**

Item 7 – Projects update and Item 8 – Consultation responses, moved to the end of the meeting.

Item 9 – Institute of Chartered Accountants in England and Wales’ (ICAEW) visit to the Panel

14. The Chair welcomed Peter James, Head of Regulatory Policy at ICAEW.

15. Peter James gave the Panel an update on ICAEW’s implementation of the CMA’s recommendations. In his presentation he outlined the background, challenges and next steps for the ICAEW.

16. The following points were raised in discussion with the Panel:

- The Panel asked about the website audits and how ICAEW planned on engaging with consumers in testing. Peter James said they would be auditing firms by carrying out a desktop exercise and encouraging feedback questionnaires from consumers to firms. The Panel expressed interest in seeing any changes/work on the website audits.
- The Panel said that ICAEW should consider including a separate interactive area on their website for consumers.
- The Panel highlighted the fact that consumers shop around less in the probate market and that it would be useful to link to probate providers’ complaint information. Peter James said that ICAEW carry out a thematic complaint review every year and match it against its quality assessment, and ICAEW has a probate workshop advising practitioners.
- The Panel asked whether the ICAEW proposes to enforce the guidance on price transparency, Peter James said the ICAEW are working towards this. The focus in the beginning will be on voluntary guidance with a view to move to mandatory, and there will be sanctions in place if not followed. Peter James emphasised that the ICAEW’s guidance is not a soft approach to transparency

17. The Panel welcomed an update from the ICAEW six months after the new guidance is in place (September 2019). Peter James also suggested meeting with the Panel Manager every three months.

18. The Panel thanked Peter James for his presentation.

The Panel noted the presentation from Peter James.

Item 10 – Discussion on the regulatory review with Professor Stephen Mayson

19. The Chair welcomed Steven Mayson, Professor of Law at UCL. He introduced himself and gave a brief overview of the Review he is carrying out.

20. The Panel welcomed the working papers drafted for the first stage of the Review. In response to the working papers the Panel said that regulation should be risk-based. Regulation should increase proportionately with the level of risk. The Panel also suggested that there could be a risk profile for particular activities.

21. Steven Mayson noted that the terms and what encompasses reserved/unreserved activities is not meaningful to consumers. He said he was sympathetic to clear rationales for regulation.
22. The Panel said it would welcome consideration of standards in the review.
23. Steven Mayson raised the issue of authorisation and competence, where, for example, an individual service provider is authorised, but the question remains if they are competent to carry out the work.
24. The Panel noted that it is keen for the issue of vulnerability to be a regulatory concern.
25. Steven Mayson highlighted a shift in the profession, where providers increasingly see themselves as regulated entities. He expressed concern about the perception that lawyers feel more committed to the profession than to the firm. However, there is a shift, but there is still a lot of ground to cover. He noted that business, as a collective may erode the attachment to the profession due to the way firms provide services.
26. The Panel asked about the connection between the brand value (e.g. of the title “solicitor”) and consumers’ understanding of it, and how valid the connection is between the title and the brand identity. Steven Mayson said this is a relevant question given the changes introduced by the SRA’s Handbook review recently. There is the issue that the title “lawyer” is easily substituted with the one of “solicitor” or “barrister”. He noted that some however argue that the defence of the title is a protectionist approach for the profession, and not always in the interest of the consumer.
27. The Panel said that the globalisation of legal services providers has changed how solicitors deliver services. Steven Mayson also recognised that there is a clear difference between firms that deliver services to individual customers and SMEs, and those whose clients are mainly big firms. The Panel recognised that the focus should be on the asymmetry of information that affects so many individual/SME consumers, but is of much less concern for big firms.
28. The Panel asked how redress fits in with the Review. Steven Mayson confirmed this is part of the second phase that is meant to start early next year covering how to regulate and what happens when legal services go wrong. He recognised that there is a change in the context due to technology and austerity.
29. The Panel wanted to know if there was an ideal outcome of the Review. In response, Steven Mayson shared that he would like to see a more fit for purpose settlement, one that is flexible to changes, and open about the identity of the profession in the future.
30. The Panel asked about the Government’s approach to the Review. Steven Mayson said that the Government did not commission the Review, however, he hoped that they will take notice of it. He also said that he is not clear about what the final product will look like, as he is not convinced that all stakeholders agree on the issues analysed and presented in the working papers. He said the Review can build on Sir David Clementi’s Review, and it could aim to be more specific, although there are tensions between being specific and attracting consensus across the sector.
31. Finally, Steven Mayson covered the separation of regulatory bodies from representative ones. He believed that the current settlement will not survive. He also said he was not sure of the need for so many regulatory bodies.
32. The Chair thanked Steven Mayson for his time.

Item 7 – Projects update

33. The Panel Associate presented the projects update.

The Panel noted the projects update.

Item 8 – Consultation responses

34. The Panel Associate presented a paper on consultation responses. No responses have been submitted since the last Panel meeting.

The Panel noted the following live consultations:

- **The BSB is consulting on their Strategy for 2019-23.** The deadline to submit a response is 10 December 2018.
- **The BSB is consulting on its rule change on transparency.** The deadline to submit a response is 14 December 2018.
- **The Master of Rolls is consulting on appointments to the Solicitors Disciplinary Tribunal.** The deadline to submit a response is 31 December 2018.

The Panel noted responses had been submitted to:

- **ICAEW consulted on delivering greater transparency.** The Secretariat submitted the consultation response on 30 September 2018.
- **The Solicitors Disciplinary Tribunal consulted lowering the burden of proof and procedural rules in relation to applications to the tribunal.** The Secretariat submitted the consultation response on 8 October 2018.

Action point: The Panel noted the consultation paper.