



The Law Society

The Law Society's response to the Office of Legal Complaints' Business Plan

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SUPPORTING
solicitors

The Law Society's response to the Office for Legal Complaints consultation on their Business Plan

The Law Society is grateful for the opportunity to comment on the Office for Legal Complaints (OLC) draft business plan. We welcome the Business Plan as it gives approved regulators, regulated community and consumers of legal services a clear picture of how the OLC will become operational.

The Business Plan sets out the effort needed and potential challenges which the OLC may face before the ombudsman scheme goes live. The Law Society is pleased to have the opportunity of commenting on the draft plan. As the largest approved regulator, we hope that our own experience of creating and maintaining a complaints handling function may be of some use to OLC, although we recognise that OLC's Ombudsman scheme will be very different from the schemes the Legal Complaints Service (LCS) have run up to now. We share the OLC's ambition for the creation of a first class ombudsman scheme which serves, and has the confidence of, both clients and lawyers.

Key Assumptions/ High Level Business Assumptions

We believe the time-table as laid out in the plan is tight but achievable. The OLC will naturally need to have appropriate contingency plans to react quickly if any of the risks which are identified occur.

The planning process would be strengthened if it was based on a estimation of the level of demand. While nobody can be sure how many complaints the OLC will receive from day one, it is necessary for OLC management to make an educated guess on this matter otherwise there is no solid base for allocating resources. The publicity surrounding the creation of the OLC may well lead to a significant increase in cases but this is not certain. Unlike when the Financial Ombudsman Service was created, there are already well known complaints services in the legal field. The current level of complaints which the LCS, plus other legal complaints handlers, receive are a good source of information to base predictions of future demands.

The assumption that few cases will end up being decided at ombudsman level is presumably based on experience in other schemes. If this prediction is inaccurate there will be resource consequences for the management of cases. The policies which the OLC adopts will have a big impact on this ambition. It is not clear whether the OLC's recent consultations have prioritised this goal. For example, the current 'case fee' proposal is not as conducive to inducing solicitors to settle matters before adjudication as are the current arrangements.

IT

The sourcing and embedding of correct technology is one of the most important elements in the Business Plan. Installing best work management systems and appropriate technologies will help the OLC to achieve operational efficiencies. This is particularly so given the commitment in the Plan for the OLC to move to paperless case management.

The timetable is aggressive but achievable as long as the OLC has prepared contingency plans in order to react swiftly when necessary. It is highly possible that compromises will need to be made if the overall objectives are to be met. The sign-off of all front end deliverables are scheduled to occur in Q2. This leaves little time for systems testing.

Due to the time constraints we agree it is much more sensible for the OLC to purchase an IT package which is commonly in use elsewhere. In order to benefit from this approach, bespoke adaptations should be kept to a minimum.

The desire to future-proof the OLC by anticipating the way in which the use of technology will develop needs to be balanced against avoiding the creation of a system which is more elaborate than needed.

Approved regulators will need to be fully appraised of and conversant with the OLC's technical requirements otherwise there is a danger that regulatory data will not be transferred appropriately. Approved regulators will need to know how the OLC will operate when building their systems. The earlier communication happens between stakeholders the greater the probability of a smooth transfer in 2010.

People

One of the difficulties any new organisation face is to ensure that their staff have sufficient and relevant expertise. Complainants will expect a complete complaints handling service from day one. The staff at current legal complaints handlers have considerable knowledge and experience of handling consumer complaints. If the OLC takes maximum advantage of this expertise, it will help OLC to hit the ground running.

The Law Society recognises the importance of fostering the right organisational culture from the outset. The LCS staff represents a flexible workforce which has been through a significant culture shift since the introduction of the new LCS Board in 2006. This change led to significant improved service levels and created awareness of modern complaints handling practice throughout the organisation. We are confident that LCS staff will be willing and able to embrace the new OLC culture.

Communication

The OLC will have a very important role to play in educating the profession on appropriate complaints handling. The better the legal profession manages first-stage complaints handling, the less dispute resolution work the OLC will have to undertake. This has the potential dual advantages of resolving matters for the customer as soon as possible, and controlling the OLC's running costs. The Law Society has a enormous amount of experience in communicating to solicitors. We would be happy to assist the OLC in reaching all corners of our profession.

The Plan highlights the dilemma of timing the release of information about the establishment of OLC. Communicating too early risks encouraging premature complaints. This may disappoint complainants and overload the OLC with unnecessary administration work at a crucial time during the set-up process. On the other hand, communicating too late risks causing existing providers to continue receiving complaints which they are no longer responsible for. We think it more important to avoid publicising the OLC too early as it will not be difficult for existing approved regulators to redirect complainants received.

Finance

We are relieved that the initial modelling of the OLC set-up costs are within the allotted budget. We are encouraged that the OLC is confident that they will not need to go above this amount. The full cost of the OLC will be recovered from the legal profession from a combination of a levy on approved regulators and, once the OLC is operational, fees charged to lawyers for dealing with complaints. The current economic climate has had the doubly negative impact on many law firms of rising costs and lower incomes. It would not be easy for the profession to find extra resources. It is inevitable that in most circumstances lawyers will fund any extra amount they are required to pay for complaints handling through fees which are ultimately charged to clients.