



Russell Jones & Walker

Solicitors

Russell Jones & Walker is concerned to improve standards throughout the profession and the reputation of solicitors and to this end welcomes the introduction of a robust, comprehensive and properly managed system which ensures that justifiable complaints are dealt with to the satisfaction of the client. At the same time we have noticed in some areas, particularly where individuals are responsible for their own costs, that the greater the propensity for penalties to be imposed in a claims system, the greater the likelihood for clients to attempt to attain and achieve a reduction in their fees. There are several reasons for this: the solicitor's concern at the amount of time in dealing with the complaint (as prescribed by the system); the solicitor's fear of penalty and cost and; fear of the attendant publicity in the event that respondents are publicised.

Our responses are made against a balanced background of approach to complaints. We also recognise the need to focus on the service needs of the client as well as the legal needs.

Q1. Should we include some additional guidance in the scheme rules about how in-house complaints handling inter-relates to the Ombudsman scheme? If you agree, what form should this take? More generally, what can we do to promote good customer service in the legal profession? Please give examples and reasons.

We believe that there should be regulated minimum guidelines which are easily translated into a meaningful process for all sizes of firms and that this guidance should be expanded to include a focus on service delivery. If regulated in this way, then failure to comply would result in a breach of regulations. This is likely to ensure adherence and avoidance of complaints. Anything more than minimum guidance would be impossible to police and impossible to integrate into a number of firms, especially in light of the diversity of legal products becoming available, and thereby become less effective.

Q2. Should the OLC ask the Lord Chancellor to consider exercising this power to include the others we have suggested? Should we include anyone else? Please give your reasons why or why not.

We can take no issue with the benefit that might arise to a complainant fearful of the consequences of asking for assistance. Our experience over the years is that court cases tend to get dealt with more speedily where individuals are represented by trained lawyers and this would also apply to the complaints system. However, an open invitation to responses by friends, relatives etc., with no experience in regulated procedures could lead to greater time wasting than is currently the case. We would like to have more clarification on this point.

Q3. Are there any gaps in who can come to the ombudsman scheme? Should we ask the Lord Chancellor to consider including anyone else and, if so, who and why?

We feel that negligence is an issue for legal interpretation and that to consider otherwise would require consulting with the insurance industry as insurance premiums would be adversely effected.

Q4. What do you think about the current proposal for the time limit to bring a complaint? If you think it should be different, please say what time limits you would include and why.

We would agree that 1 year is a satisfactory compromise between the current 6 months and the extreme 6 years previously proposed.

Q5. Do you have any comments on the approach to resolving disputes set out in the scheme rules?

We feel that the approach is commendable and do not believe the procedures are too onerous. There should be emphasis on informal resolution. It is our experience that an early explanation satisfactorily resolves issues which could otherwise escalate. A failure to use the informal process should be considered as a minor offence so as to encourage firms into early resolution. This would result in fewer formal complaints and far less cost and adverse publicity. This issue has been proven we believe beyond reasonable doubt; where the Legal Complaints Service has used this procedure all parties have benefited.

Q6. The scheme rules also set out a framework for our ongoing relationship with approved regulators. Is this framework sufficient? If you think we should include something additional, what form should this take?

At present the framework looks sufficient. The issue here may be who is to regulate some of the newer legal services being offered by law firms as they move forward. On this score we would raise the question of how and whether ~~£~~esco Lawq other such businesses and bulk insurances providers will be regulated and how complaints against them will be dealt with. We also previously raised the question about how the new legal service offerings, many of which will be web based will be measured against the services provided by local solicitors.

Q7. Are there any other points or issues you wish to raise in relation to the draft scheme rules?

Whereas we approve of fees being charged to firms who fail to satisfactorily resolve complaints or failed to take adequate steps to try to resolve the complaint and that a there might be a small number of ~~£~~reeqcomplaints each financial year we are concerned to hear that this would be a flat fee, possibly proportionate to the size of the firm. Are we talking here about a fee to the OLC or an award to the complainant? We are concerned that there is no guidance within the rules at present as to the size of awards which could be made to a complainant and whether these will be based on certain types of complaints.