



# The Society of Licensed Conveyancers

## Response by The Society of Licensed Conveyancers to the Legal Ombudsman Business Plan and Budget consultation 2022/23

The Society of Licensed Conveyancers ('the Society') is the professional body representing Licensed Conveyancers and Licensed Probate Practitioners, as regulated by the Council for Licensed Conveyancers.

### **Consultation questions:**

- 1) This document is being shared with you following a year of enhanced public accountability. What are your confidence levels in the Legal Ombudsman scheme compared to this time last year?**

As stated in our response to the previous year's consultation "*The Society was struck by the honest assessment in the consultation paper of the Legal Ombudsman's current situation, how reflective it is of past failings, and its ambitions, albeit conservative, for the future.*". Again, the Society acknowledges the frankness espoused by the Legal Ombudsman in this year's consultation.

The Society accepts that the climate has been difficult especially around the retention and recruitment of suitable staff. Based on the data we have seen we accept that the Legal Ombudsman is "*an improving organisation*". The Society accepted in last year's consultation that marked improvement especially in relation to productivity and reducing waiting times would take up to two years i.e. into 2023. However, despite the improvements mentioned in this year's consultation the Society is frustrated by your reference to "*the inherited backlog*" and that any likely "*acceptable level of service*" has been pushed back beyond 2024 at the earliest.

Unfortunately, the Society's confidence in the Legal Ombudsman is now lower than it was compared to this time last year. Feedback from our members indicates an unacceptable length of time for the resolution of complaints, and concerns about the attitude of investigators to the carrying out of their investigations (for example, expecting service providers to respond immediately to requests for files/information when it has taken the Legal Ombudsman nearly six months to start the investigation).

There appears to be no acknowledgment by the Legal Ombudsman and its staff that the same difficulties it has experienced (COVID 19, attrition, recruitment problems, staff numbers, sickness, etc) have also impacted the service providers and in the case of conveyancers this has been compounded by the pressures exerted by the so-called SDLT 'holiday'. The Society's members wish

to support the Legal Ombudsman in reaching an 'acceptable level of service' but not to the detriment of ensuring their own levels of service.

**2) Specificity is key for the credibility of the Business Plan, but it is also important to avoid 'information overload'. What would you like to see more information or detail on in the final Business Plan issued in the New Year?**

The Society also wishes to avoid '*information overload*'. It recognises that the Legal Ombudsman has kept a dialogue with stakeholders through its engagement plan and dataset updates. The Society will welcome more information and detail in the final Business Plan on the key issues and data arising out of those engagements. The Society is happy for this detail/information to be in summary, but it should provide comparisons against noted forecasts and assumptions.

**3) The Legal Ombudsman must avoid over-promising and under-delivering. To this end this document seeks to openly set out the different confidence levels in the impact of what is being proposed. Is this a helpful approach to adopt?**

The Society does find this approach helpful. It provides context around the decisions to be reached by the Legal Ombudsman and thus makes it easier for the reader to comprehend the likely impact.

Generally, the Society accepts that your three priority areas for the Business Plan are appropriate and worth pursuing. The Society also supports you continuing with your current strategic objectives. The Society also notes your concerns that your "*hands are tied*" in regard to some of your challenges and that it may take longer (based on your forecasts) for you to "*overcome these constraints*". However, the Society expects your emphasis over the next 12 months to be to reduce the backlog and to resolve complaints within 3 months or sooner of commencing an investigation (this is crucial both to the consumer and to the service providers). Plan to '*loosen your hands*' when and where you can but concentrate on returning "business *as usual*" as early as possible. As we know legislative changes can take much longer to achieve than anticipated.

**4) Historically there has been an emphasis on plans to tackle the size of the preassessment Pool but there are better and more customer-centred ways of measuring sustainable acceptable performance. Should the Legal Ombudsman place more emphasis on individual customer experience, the value for money the service provides, the wider impact of the scheme or other measures?**

As stated in our response to last year's consultation the Society looks to you to take advantage of 'complaint handling' intelligence already 'out there' and when appropriate, for you to commission relevant external research. This should enable you to identify better ways of measuring sustainable acceptable performance.

The Society looks to you to engage with the service providers more. The service providers are already using innovative and proactive ways for dealing with complaints. The Society will encourage its members to share those methods and approaches with you. This is especially relevant in relation to Priority 2.

Reducing the size of the PAP is crucial both for the public and to the service providers. However, each individual consumer generally is only concerned with his or her own complaint and has little interest in how large the PAP is or how long it will take to reduce in size. The Society believes that an emphasis on “*individual customer experience*” (to include service providers) should be pursued as ultimately this will assist in reducing the size of the PAP.

“*Value for money*” should also be a consideration.

The Society also believes that a “*prevention rather than cure*” approach should be promoted. The Society acknowledges that a key function of the Legal Ombudsman is to share its learning and insights from the work it undertakes. Such learning and insight should be provided to both the public and to service providers. Complaint prevention initiatives, whilst not easy to quantify, should be measured as part of acceptable performance.

**5) What are your views about the proposed budget for 22/23? If you disagree with the proposed budget, what elements of the Business Plan should be changed in order to address this?**

The levy paid to the Legal Ombudsman by the legal services regulators is a significant cost of regulation. That cost is passed onto the service providers through their practising fees. For example, the Council for Licensed Conveyancers pays a levy to the Legal Ombudsman (approximately £686,000) equating to a third of its own £2.2m budget. That is disproportionate. This is especially galling when Licensed Conveyancers only account for 4% of all complaints of the total handled by the Legal Ombudsman (an average of 256 cases in each of the last three years).

Considering the above, the Society prefers Option One as this is in line with the Society’s willingness last year to accept the budget as proposed in the 2021/22 Business Plan. This decision is made reluctantly. As stated in last year’s response to the 2021/22 consultation the Society wished to be fully convinced as to the viability of any future budget. On that basis the Society considers Option One to be ‘*the lesser of two evils.*’

Both the Chair and the Chief Ombudsman regard having “*enough people in the right roles*” necessary to deliver the Business Plan. The budget should therefore seek to ensure that the Legal Ombudsman recruits and retains the ‘right people’.

The Society trusts the Legal Ombudsman will exercise the use of the budget responsibly and prudently as well as looking to find appropriate savings where appropriate, for example, through better use of technology and early case closures.

**6) Are there further measures that LeO should consider implementing in order to improve its performance?**

In your Chair’s introduction she stresses that Ombudsman schemes are “*recognised for their ability to resolve disputes with impartiality, but minimum formality, providing a trusted alternative to the courts*” (our emphasis).

For us ‘minimum formality’ is ensuring that your complaint handling procedure is simple, clear, and timely, with as few stages as possible. The procedure must not be complicated. You should avoid a ‘one-size-fits-all’ approach to complaint handling. It is important to ensure that the response to an

individual complaint is proportionate to the circumstances of the matter in hand. The Society also expects the Legal Ombudsman to act fairly towards the service providers as well as towards the complainants.

The Society is encouraged by the Legal Ombudsman's desire to seek '*radical change*' to the way it delivers its services and to improve the '*customer experience*'; and the Society wishes it well in those endeavours. They are needed.

However, it seems to the Society that some initiatives have been available to the Legal Ombudsman for some time but not adopted previously. This is disappointing. For example, the Society would have expected the Legal Ombudsman to use its powers under Rule 5.7 ('grounds for dismissing or discontinuing a complaint') as '*business as usual*' rather than suggesting, as in this year's consultation paper, that this is a newly thought of intervention.

As the Society has stated before our members struggle, at times, with the Legal Ombudsman accepting complaints that are clearly vexatious or have little to do with service issues and more to do with technical legal matters. Hopefully, use of Rule 5.7 will counter such complaints.

The Society is also heartened to see that the successful pilots for the PAP projects are to be mainstreamed into your day-to-day operations. Increasing the use of Rule 5.7 and widening the use of Guided Negotiation and Reasonable Offer Made will, with the appropriate resources, we believe significantly reduce the backlog.

The Society supports the introduction of 'specialist law teams' which it agrees will lead to faster outcomes but is disappointed that you are only trialling probate and personal injury teams at this time. The Society would have expected a conveyancing team to be trialled as well.

We ask that the Legal Ombudsman, through its managed recruitment service, revisit its People Strategy. At present, you do not require candidates to have a background in law (unless specified). We suggest that candidates should have some experience of the legal system when being recruited. In addition, we you should encourage your staff to achieve some level of professional status to improve retention. For example, the Society is aware of the '*Professional Award in Ombudsman and Complaint Handling Practice*' delivered by Queen Margaret University (on behalf of the Ombudsman Association).

The Society will support the introduction of more 'front-end initiatives' that help reduce the PAP but asks that the Legal Ombudsman ensures that '*business as usual*' is not side-lined in pursuit of such initiatives. Both the Public and the service providers have little interest in experiments nor any interest in the reasons why matters are being delayed but do expect an early resolution to their concerns. Whether the backlog is inherited or not the Legal Ombudsman must find ways to reduce it sooner rather than later and ensure that at that point an acceptable level of service has been achieved.

**November 2021**