

Office of the Legal Services Ombudsman

“Satisfying the Dissatisfied: Legal Services Ombudsman Baseline Surveys Revisited”

A Summary of a Report by Craigforth Consultancy and Research to the Office of the Legal Services Ombudsman: July 2004

Key Findings and Recommendations

Comparisons with 1998 and 2001

The Office of the Legal Services Ombudsman has sustained and built upon many of improvements in service that were achieved between the first two surveys. However, it remains a considerable challenge to attempt to satisfy those who have been dissatisfied at each stage of this extended – or super-escalated – complaint process.

The main achievement has been the successful reduction of the length of time for cases to be closed, while retaining service quality. Complainant - and enquirer - satisfaction increased modestly on most aspects of the service.

The majority of outcomes continue to disappoint the great majority of complainants, even many of those who receive what might be seen as a successful decision by the Ombudsman.

While decisions in 2003/2004 were more critical of the professional bodies and the OLSO made more recommendations in favour of complainants, including for payments of compensation, complainants were marginally more dissatisfied with the outcome than in 2001. Outcome remains the main driver of satisfaction.

Complaint handlers in the professional bodies were also disappointed by many of the decisions of the Ombudsman, as in 2001 and 1998. Complaint handlers had regular contact with the OLSO but wanted more communication, including details of the complaint to the Ombudsman about their handling of the case.

The OLSO process continues to be largely invisible to most practitioners, though they would like more information on the case.

There remains a problem of “managing” the expectations of complainants, since most are first time users, but the initial information provided is well received by most.

Other Findings

Though the numbers of complainants receiving compensation increased, the great majority of awards were less than £500, and most of these were less than £250. Only those who received more than £500 were broadly satisfied with their compensation.

There were many differences in the views of practitioners and complaint handlers in the professional bodies. For example, practitioners tended to agree that the professional bodies could be unfair to lawyers over complaints, while the complaint handlers disagreed. The practitioners thought that the OLSO was even-handed and took a balanced view, while, again, complaint handlers disagreed.

Recommendations

OLSO should

- Continue to focus its efforts on speed of handling, closing as many cases as possible within 3 months;
- continue to provide clear information to all parties, but give complainants more information on chances of success for their case and on possible outcomes, including levels of compensation;
- promote the OLSO website more actively through OLSO literature and the professional bodies;
- update complainants more frequently, to reduce complainant contact with the Office and to increase complainant satisfaction
- consider ways of improving communications with the professions in particular the complaint handlers who would like to see the details of complaints.

Background to research

The research was commissioned in 2004 by the Office of the Legal Services Ombudsman (OLSO) from Craigforth Consultancy and Research, which as Customer Management Consultancy undertook the previous baseline research in 2001 and in 1998. The aim was to update the findings of the 2001 survey, measure the impact of changes in office procedures and information for service users since 2001, and make recommendations for any further changes.

Survey methodology

Four surveys, using self-completion postal questionnaires, were undertaken:

- Enquirers' Surveys – people who sought information and advice;
- Complainants' Survey – people whose case was taken up;
- Practitioners' Survey – solicitors, barristers and licensed conveyancers who were the subject of a complaint;
- Survey of Complaint Handlers in Professional Bodies – Law Society, General Council of the Bar, Council for Licensed Conveyancers, Institute of Legal Executives and the Chartered Institute of Patent Agents.

A sample of 709 enquirers was drawn from amongst those who had written to the OLSO or telephoned for information and advice, some of whom had been sent a complaint form but had not yet returned it.

Samples of complainants and practitioners were drawn from all cases closed over the 12 months from 1 April 2003 to 31 March 2004. As in the 2001 survey, this came to around 1,500 cases. Reminders were sent after two weeks to non-respondents.

For the complaint handlers' survey, questionnaires were sent to all five professional bodies covered by the OLSO, to be completed by as many complaint handlers as they saw fit.

The analysable response rates are given in Table 1. The total response rates were somewhat higher, especially for practitioners at 34%, many of whom felt unable to complete the questionnaire because of minimal or no contact with the OLSO. The enquirers' response rate was relatively high for this type of survey.

Table 1: Postal response rates and sample sizes

Survey Sample	Response Rate	Analysable Responses
Enquirers – 709	32%	227
Complainants – 1,457	41%	598
Practitioners – 1,732	23%	397
Professional Bodies – N/A	N/A	20

Context

Super-escalated complaint environment

The complaint environment is described as “super-escalated” because consumers who wish to complain about legal services face an extended process. All must complain to the lawyer concerned, and perhaps also to the senior partner in a firm, before taking their case to the relevant professional body. Only when that process is complete may they approach the Ombudsman. In other sectors, the complainant can usually go straight from the company or public body to the Ombudsman.

In any escalated complaint process, only those dissatisfied with the outcome take their case to the next level. The extended nature of the process, moreover, tends to create further dissatisfaction, on top of the original source of complaint.

It should also be noted that the flow of consumers coming to the OLSO from the professional bodies is not necessarily consistent in quantity or in composition. If a professional body were to make more decisions that satisfied complainants, that would reduce the **numbers** coming to the Ombudsman. Arguably, it may also reduce the **proportion** of complainants who would be likely to be mollified or satisfied by the OLSO.

Part of the remit of any Ombudsman organisation is the aim of improving complaint handling “upstream” – in this case by the professional bodies. However, there is no direct, positive relationship between success in that task and success in satisfying those who complain to the Ombudsman. Indeed, there may be an inverse relationship.

Satisfaction and the Ombudsman “service”

Legal complainants who reach the Ombudsman, therefore, have been unhappy with at least two previous attempts at resolving their complaints. They have also spent months or years in the process. They are not the easiest group to satisfy.

Despite the challenge of giving satisfaction to the dissatisfied, evidence shows that improving the service can increase user satisfaction with an Ombudsman organisation, as with any other kind of service provider. People do appreciate prompt attention and clear explanations, even if they are not ultimately successful.

However, a large part of satisfaction with an Ombudsman organisation is driven by the outcome. It is not permissible for an Ombudsman to change decisions to increase satisfaction - unlike a commercial concern that can, quite properly, make an over-generous settlement to keep a valued customer.

Moreover, even if the need to provide justice were laid aside, arbitrary decisions in favour of one party would produce dissatisfaction amongst other parties. An Ombudsman service is therefore provided under especially tight constraints.

It should be noted that legal practitioners have relatively little contact with the OLSO, so much of the service is invisible. Complaint handlers in professional bodies who do have contact with the OLSO, moreover, do not invariably perceive themselves as receiving a “service” from the Office.

Main Findings

Who is coming to OLSO and what about

As in 2001 and 1998, the majority of consumers who approached OLSO were home owning males, aged 46 or over – though again complainants were more so than enquirers. The proportion of members of ethnic minorities amongst complainants had increased from 6.2% in 2001 to 9.3% in 2004 and there was a similar increase amongst enquirers. Again, 93% of complainants had English as their first language. One in three complainants reported at least one disability, a slight increase on 2001.

Over nine out of ten complainants and enquirers who responded were complaining about solicitors and the rest about barristers. Amongst the practitioners who responded to their survey there was a handful of licensed conveyancers and patent agents. Some 48% of solicitors worked for firms with 4 or fewer partners, a reduction from the 58% in 2001: but this compares to only 36% of solicitors nationally, so smaller firms continue to be over-represented.

On the nature of the original problem, complainants and practitioners tended to agree that wrong or inadequate advice or acting without or failing to follow the client's instructions were the most commonly mentioned and the most serious. However, as in previous surveys, lawyers tended to underestimate the number of problems that complainants perceived with their services.

On complainants' problems with the professional bodies there was, as in 2001, a difference between the views of the two groups of respondents. Practitioners believed that complainants simply disagreed with the professional body's decision and wanted it overturned. For complainants this was the most commonly mentioned problem, but only 17% said it was their main problem, compared with the 30% who alleged bias and the 29% who said the professional body failed to look at all the evidence. Many complainants therefore came to the OLSO hoping for an "unbiased" adjudicator who would look objectively at "all the evidence" - and who would reach a different conclusion.

Initial contact

Most consumers had heard about OLSO from the professional bodies, followed by a member of the legal profession or an advice agency or trading standards.

Most of the initial consumer contacts with the OLSO came after the professional body's decision and were the start of the complaint process. But enquirers and complainants were also looking for information about the OLSO process and for advice, eg about the strength of their case.

Just over one in ten of consumers felt able to comment on the OLSO website. Most had found it through a search engine or a link in another website rather than through a publication. Just under half found what they were looking for; those who did not were looking for specific information about their type of case or for contact information. More consumers thought the website was good than poor, but the largest group was non-committal.

Enquirers were more satisfied than complainants with their initial reception – a common finding, since disappointment with a subsequent decision colours many complainants' recollected views of the start of the process. The exception was the OLSO form or leaflet; complainants again were more satisfied with this.

A majority of enquirers who responded said that they had made initial contact in writing, 60% by letter and 10% by email. Most of those who telephoned got through first time.

The complainants' experience

The great majority of people who complain to an Ombudsman do so only once. This means that if there are changes in the service most complainants will not notice in the same way that customers of a bank or a supermarket would.

There has been a considerable increase in the speed of case closure since the first survey. In 1998 only 7% of complainants perceived that their case took fewer than three months; in 2001 this rose to 23% and in 2004 this increased further to 34%. It should be noted that these figures refer to customer perceptions of the duration of cases, some of which had first reached the OLSO during 2002.

Comparisons can be made with the OLSO's "actual" figures, which show that 95.9% of cases closed in 2003-2004 took under 6 months compared to complainants' more pessimistic perceptions of 73%. Only 0.3% of cases took longer than 12 months compared to perceptions of 15% of complainants; it is possible that this group, who tended to be very dissatisfied with the length of time taken, were conflating the Law Society or Bar Council process with the OLSO.

There was a modest increase in complainant satisfaction with speed and a decline in dissatisfaction, but not in proportion to the perceived or actual improvement.

Unlike the lawyers, the majority of complainants felt able to comment on the OLSO staff they had dealt with. The findings showed that the significant improvements in complainant satisfaction with OLSO staff recorded in 2001 had been sustained. Moreover, enquirers, in response to the same questions, were consistently more satisfied than in 2001, as well as being more satisfied than complainants.

Complainant satisfaction with the provision of information by the OLSO again remained consistent with the improved results of 2001. This was under-pinned by six out of ten complainants again being contacted by the OLSO to be updated on the progress of their case. OLSO updated slightly less frequently than in 2001; this may have been related to the increased speed of closure.

Despite the improvements in speed since then, some 61% of complainants felt the need to "chase up" OLSO to find out what was happening to their case, compared to only 56% in 2001.

Complainant satisfaction

Complainants were asked three main satisfaction questions – about the service process, about the report containing the decision and about the overall handling of the case by OLSO. Similar questions were asked in 2001.

Complainants were more satisfied with each of the various components of the service process than they claimed to be with the “overall level of service”, so this can not be seen as an “average” level of service satisfaction but rather a judgement influenced to some extent by the eventual outcome. There were some modest increases in satisfaction with OLSO’s efficiency, the explanation at the start of the process and updating, and an increase of 8% in satisfaction with access to the investigating officer since 2001.

There was a big gap in satisfaction between the service process, with which again nearly as many complainants were satisfied (42%) as dissatisfied (45%), and the report, with which many fewer were satisfied (17%) than dissatisfied (73%). Overall satisfaction with the OLSO’s handling lay between these scales, though much closer to the report scale, especially amongst the dissatisfied.

Table 2: Complainant satisfaction compared – 2004

	Service 2004	Report 2004	Overall 2004
Very satisfied	16%	7%	10%
Fairly satisfied	26%	10%	13%
Neither satisfied nor dissatisfied	14%	9%	5%
Fairly dissatisfied	12%	16%	15%
Very dissatisfied	33%	57%	57%

Overall complainant satisfaction declined between 2001 and 2004, despite increased satisfaction with a number of aspects of the service, such as speed, though it remains higher than in 1998.

Table 3: Overall complainant satisfaction with OLSO

	2004	2001	1998
Very satisfied	10%	13%	9%
Fairly satisfied	13%	16%	10%
Neither satisfied nor dissatisfied	5%	10%	7%
Fairly dissatisfied	15%	12%	13%
Very dissatisfied	57%	49%	62%
Base (n)	575		

This reflects the higher proportion of respondents in 2004 who believed that the outcome had been unfavourable.

Table 4: Complainants’ perceptions of outcome

	2004	2001	1998
Completely in my favour	9%	10%	8%
On balance in my favour	11%	13%	9%
On balance it was a draw	4%	7%	5%
On balance against me	20%	20%	19%
Completely against me	56%	51%	59%

This perception was held by respondents, even though the OLSO actually increased the percentage of “recommendations”, which might be seen as positive by complainants, from 21.6% in 2002/2003 to 36.7% in 2003/2004. This increase in the number of recommendations included a more than doubling complainants who were paid compensation. (The proportion of “criticisms”, which might also be seen as a positive outcome to complainants, remained steady, at 11.2% and 10% respectively.)

Just over a third of respondents said that they had been paid compensation; a quarter of them said they had received over £500. Some 47% said that the compensation had been “far too little” and a further 21% thought they had received less than was fair or reasonable. Only those who got over £500 tended to be satisfied with the amount.

Thus, in Table 5 below, fully 42% of respondents who were awarded compensation believed that the case had gone, on balance or completely, against them. Even more of those whose outcome was a criticism of the professional body thought the case went against them, 45%, as did a third of those who achieved a reconsideration. The research in 2001 revealed that only where the professional body had been told both to pay compensation and to reconsider the case did the great majority (75%) believe they had won. A question for future research is why does “winning” feel like “losing” for so many?

Table 5: Complainants’ perceptions of outcomes

	Completely in my favour	On balance in my favour	A draw	On balance against me	Completely against me
Outcomes					
Criticism of how the professional body handled your complaint	24%	27%	5%	21%	24%
Recommendation that the professional body should reconsider your complaint	32%	33%	3%	14%	19%
Recommendation that you should be paid compensation	23%	29%	6%	21%	21%
Decision, based on the evidence, that the LSO was satisfied with the professional body's handling of your complaint	4%	3%	2%	22%	70%

The lawyers’ experience and the complaint handlers’ perspective

As in previous surveys, most legal practitioners in the survey had been satisfied by the professional bodies’ original decision and by the Ombudsman’s reports, which they saw as in the main upholding these decisions.

Most lawyers were satisfied with most parts of the OLSO process. Where satisfaction was weakest, this concerned their perceived lack of access to OLSO investigating officers and the extent to which they were updated on progress. Fewer than one in ten had had any contact with OLSO staff.

The complaint handlers' perspective was somewhat different from that of the lawyers. Most had regular contact with the OLSO and with members of staff. They were generally satisfied with the attributes of the staff, but less so with OLSO staff understanding of the issues and knowledge. They were satisfied with the speed of case processing and had observed that this had improved.

Complaint handlers were most critical of the reports, including the level of detail and their even-handedness. There were also criticisms that they did not receive details of the complaint made to the Ombudsman.

Those complaint handlers who had no experience of cases being referred to the OLSO were more than satisfied with the quality of advice that they had received on their professional body's complaint arrangements.

There were some interesting contrasts in opinion between lawyers and the 20 complaint handlers in the professional bodies who responded. Some 49% of lawyers agreed that the profession could handle complaints better, while 68% of complaint handlers from their vantage point agreed. A similar proportion of lawyers, 49%, agreed that the professional body tried so hard to be fair to the complainant that it could be unfair to lawyers, while only 17% of complaint handlers agreed.

While 33% of lawyers disagreed that Ombudsman had too few powers, 79% of complaint handlers disagreed. Moreover, more than half of lawyers, 54%, believed that the OLSO was even-handed and took a balanced view compared with only 5% of complaint handlers.

Service drivers

The two key service drivers identified in 2001 were the ***pro-active updating of complainants – before they contact the OLSO to find out what is happening*** and ***speed of closure***. Analysis of the impact of speed of closure on satisfaction reveals that the process is now so fast that it is unlikely to generate additional satisfaction by becoming faster. However, frequency of updating is still a positive driver of satisfaction. More frequent communication, despite the shortening of the process, will therefore create more satisfaction.

Recommendations to improve the service

The OLSO should continue to focus its efforts on speed of handling, closing as many cases as possible within three months.

The OLSO should also continue its efforts to provide clear information to all parties. For complainants, the initial information on the OLSO processes is well received. However it is unclear that efforts to “manage” complainant expectations, in terms of timescales and outcomes, are particularly successful. The research shows that many who have been successful believe they have been unsuccessful.

It is no easy challenge to manage the expectations of complainants who have reached the end of a super-escalated process. However, there is scope for more information to be given on specific types of case, including chances of success and what “successful” outcomes might mean in practical, and financial, terms. Case studies can help inform. So can a tariff for compensation.

The OLSO website would be an effective medium for providing this information to help complainants make an informed judgement on whether to pursue their case. The website should be more actively promoted on OLSO literature and through the professional bodies, since relatively few complainants visit the site - though those that do so may visit several times.

It would be helpful to undertake further research into complainants’ expectations at the start of the process to answer the question, ‘Why do so many *winner*s feel like *loser*s?’

The OLSO should update complainants more frequently, to reduce complainant contact with the Office to ask about progress. More frequency of updating would increase complainant satisfaction.

OLSO should consider ways of improving communications with the professions, in particular the complaint handlers who would like to see details of complaints.

Finally the staff of the OLSO should be congratulated for improving so significantly the speed of closing cases while retaining service quality.