



Front Cover Annual Report 2003/2004

LEGAL SERVICES OMBUDSMAN

In Whose Interest?

Summary of the 13th Annual Report of the Legal Services Ombudsman

The Legal Services Ombudsman is appointed by the Lord Chancellor to oversee the handling of complaints about solicitors, barristers, legal executives, licensed conveyancers and patent agents by the five professional bodies responsible for setting and maintaining standards of conduct and service within the legal profession.

The Ombudsman cannot be a qualified lawyer and is completely independent of the legal profession. The Legal Services Ombudsman for England and Wales is Ms Zahida Manzoor CBE.

There have been major changes in legal services during the past 12 months, including the replacement in June 2003 of the Lord Chancellor's Department by the new Department for Constitutional Affairs (DCA), an independent review of the regulatory framework for legal services under Sir David Clementi, and the activation of the Legal Services Complaints Commissioner (LSCC) to oversee the Law Society's complaints-handling operations.

In addition, there have been far-reaching changes at the Law Society, including a number of reorganisations of its complaints-handling system, culminating in the replacement of the Office for the Supervision of Solicitors (OSS) by two separate complaints-handling bodies.

The Ombudsman has submitted her comments to the Clementi review team and these have provided the focus for this year's Annual Report entitled 'In Whose Interest?'

Her view is that a new regulatory regime should allow the professional bodies to retain aspects of regulation necessary to guarantee professional autonomy, while ensuring public accountability through an overarching independent regulator. This regulator and an independent complaints-handling office is the minimum publicly acceptable outcome of the present review. Accordingly, the Ombudsman has proposed a 'Legal Services Authority' (LSA) together with an independent complaints-handling organisation, the 'Legal Services Complaints Office' (LSCO).

OFFICE OF THE LEGAL SERVICES OMBUDSMAN

Regarding casework, OLSO completed more cases than it received for the third consecutive year, accepting 1,485 cases and closing 1,731 cases, thereby reducing the live caseload from 451 to 205. The number of new cases received declined by just under 15% during the year, despite the complaints received by the professional bodies rising by 7%. The decrease in numbers has produced substantial improvements in average case turnaround times, which over the year have fallen from 5.6 to 2.5 months. Almost 87% of cases were completed within 3 months and over 95% within 6 months.

OLSO has improved its impact through a number of initiatives. Formal Strategic and Operating Plans have been devised for 2003/2007. Post-report feedback about the quality of its service and communications is now being collected systematically, in order to supplement the customer satisfaction survey which is commissioned from external consultants every 2-3 years.

A benchmarking exercise of OLSO's mechanisms for extracting information from casework, and assessing value for money of casework operations, is currently underway. In addition, OLSO is overseeing a programme of benchmarking by each of the professional bodies to improve their complaints handling. Various casework issues have been addressed, including a revision of internal guidance on compensation, working with the Law Society to improve the help given to beneficiaries and to prisoners, and with the Bar Council to improve its awareness of disability issues.

Over the coming year, OLSO will be developing its strategic dimension. The Ombudsman intends to extend more investigations beyond a review of the professional bodies' investigation to include the original complaint. Work will be done to assess the professional bodies' complaints-handling systems with the aim of suggesting improvements which will benefit consumers. This will include more in-depth analysis of complaints to OLSO, and an in-house survey of lawyers' service delivery and complaints handling. OLSO will be reviewing other Ombudsman schemes and regulatory models to identify improvements for OLSO and the professional bodies, and also intends to undertake a programme to raise its profile.

REVIEW OF COMPLAINTS HANDLING BY THE PROFESSIONAL BODIES 2003/2004

Headline statistics relating to complaints-handling performance are available in the Facts & Figures section of this Summary.

Office of the Legal Services Ombudsman

OLSO completed 1,731 investigations, a fall of 20.6% from the previous year, due largely to an equivalent fall in referrals. There was an increase in the proportion of formal recommendations from 20.2% to 33.4%.

The total amount awarded in compensation was £199,840, with an average of £390 per award; the highest award was £4,000 for distress and inconvenience, while the lowest was £50 for inconvenience.

The Law Society

The Law Society's complaints-handling performance appears to be improving in terms of quantity; it reduced its live caseload by 1,090 cases (8.5%). However, the Ombudsman was only satisfied with the quality of handling in 53.3% of cases, a substantial reduction from 67.2% the previous year, and well below the DCA target of 75%. The Law Society continues to fail all but one of its targets for turnaround times, which have actually deteriorated during 2003/2004. The number of cases older than 12 months has increased by 30.8%, suggesting a focus on closing newer cases at the expense of older ones.

The reason for the Law Society's improved quantity performance is mainly the establishment of a new London office with forty additional caseworkers. However, to achieve the necessary reduction in the backlog within a reasonable timescale the Law Society will need to adopt further short-term initiatives. Furthermore, it should consider additional caseworking capacity to prevent any increase in new referrals reversing its recent good performance. In relation to quality, little progress has been made over the last year regarding the length of time taken by the Law Society in reconsideration cases. In response to concerns which the Ombudsman had expressed, the Law Society has a pilot scheme underway to consider complaints from a wider range of beneficiaries; measures to improve its intervention agents; new procedures to make Remuneration Certificates easier to access; and better publicity of disciplinary findings.

Other noteworthy issues are the substantial reduction (down from 14.7% to 9.2%) in cases being referred on to OLSO from the Law Society, for reasons which are as yet unclear. The Law Society has also made changes to its existing system of Review Panels to remove appeals in most poor service investigations, which the Ombudsman is concerned may reduce the level of lay involvement in the decision-making process.

During the past year the Law Society undertook several reorganisations of its complaints-handling operations, eventually replacing the Office for the Supervision of Solicitors in April 2004 with a new Consumer Complaints Service (for service complaints) and Compliance Directorate (conduct issues).

The Law Society has also made efforts to remove the causes which give rise to complaints in the first place, through proposals relating to spot checks of firms; solicitors' compliance with Rule 15; customer care training; and extension of the 'polluter pays' regime. The Ombudsman takes the view that, while these measures are welcome, they are insufficiently robust, and that the Law Society should undertake more compliance visits; augment the existing Continuing Professional Development requirements with compulsory training in client care; and undertake more spot checks on solicitors' firms.

The General Council of the Bar

The number of complaints closed by the Bar Council fell by 7.2%, due to a reduction in the number of complaints brought by the Bar Council itself. It also made good progress in reducing turnaround times for cases. The Ombudsman was satisfied with the Bar Council's handling in 86.8% of cases - there has been a slow but definite downward trend (from 92% in 1999) over the past five years.

A much higher proportion (44%) of Bar Council complaints are referred to OLSO than for other professional bodies, but the Bar Council achieves a higher satisfaction rating. The Ombudsman intends to investigate this paradox further.

On the basis of the results of a survey commissioned from MORI, the Bar Council set up a number of Working Groups to improve its complaints-handling system. These are addressing concerns about independence and lay representation by establishing a comprehensive induction programme for members of the complaints and disciplinary system, publicising lay involvement, and obtaining regular feedback from complainants. Access to the complaints system is being improved through reviews of its literature, 'diversity' issues, the website, publicity, and attendance of complainants at panel hearings. The Bar Council's caseload is being reduced through introduction of a streamlined system for minor rule infringements, including fixed penalties and a system of written warnings. In addition, changes are being considered to the initial assessment of complaints; the consistency of decision making; improvements to organisational structure, staff's skills profiles, and computer systems; and performance reporting.

The Bar Council is awaiting statutory approval for its proposals to allow lay clients direct access to barristers in certain circumstances, and it has appointed the College of Law to deliver a training programme. It has also issued guidance regarding the handling of complaints within chambers. It is currently considering relaxing the prohibition on non-practising barristers using that title, subject to certain safeguards. The Ombudsman is not yet convinced about the adequacy of the latter proposal and is urging caution.

The Ombudsman believes that the key issues for the future are: fine-tuning staffing levels and complaints-handling procedures to reduce turnaround times; closing cases over 12 months old; developing a strategy to cope with any increase in complaints resulting from direct access; monitoring the effectiveness of client care training for barristers offering direct access; and enhancing the range and frequency of statistics relating to complaints-handling performance.

The Council for Licensed Conveyancers

The CLC's complaints systems and procedures were informally reviewed by OLSO in September 2003. The CLC has agreed to improve its leaflet; to make compensation awards for distress and inconvenience in appropriate cases; to improve documentation of decisions; and to agree a protocol with the Law Society regarding complaints about licensed conveyancers.

The Institute of Legal Executives

ILEX's complaints-handling systems and procedures were informally reviewed in November 2003. As a result, ILEX now plans to recruit an additional staff member for complaints and policy work, and has a long-term aim of introducing new procedures to investigate poor service complaints. ILEX has made good progress with the Law Society towards developing a protocol for the referral of complaints between them.

Chartered Institute of Patent Agents

OLSO conducted an informal review of complaints-handling arrangements at CIPA in March 2004, concluding that the investigative process is extremely thorough and includes laudable efforts at conciliation. However, it was suggested that CIPA should introduce a streamlined procedure for simpler complaints; consider using a retired patent agent to assist in conciliation; and adopt a case management system.

Complaints and the legal profession

	Number Practising in 2003	No. of complaints opened by the Professional Body in 2003	Reports by LSO (2003/2004)	% of Professional Body Reports to LSO
Solicitors/OSS	92,757	16,989	1,508	8.88%
Barristers/GCB	13,985	466	205	43.99%
Licensed Conveyancers/CLC	813	142	9	6.34%
ILEX	23*	43	0	0%
Chartered Institute of Patent Agents	57*	11	0	0%
Scottish Legal Services Ombudman	-	-	9	-

*Total number of members where the Ombudsman has jurisdiction

OLSO caseload statistics

	2003/2004	2002/2003	2001/2002	2000/2001
Cases awaiting investigation at start of year	451	886	998	544
New cases accepted for investigation during the year	1,485	1,745	1,677	2,132
Number of reports issued during the year	1,731	2,180	1,789	1,678
Cases carried forward at end of year	205	451	886	998

OLSO turnaround times

Reports issued	2003/2004	2002/2003	2001/2002	2000/2001
Total number of reports	1,731	2,180	1,789	1,678
% issued within 6 months	95.9%	70%	58%	76%
% issued within 7 to 9 months	2.5%	5%	9%	16%
% issued within 10 to 12 months	1.3%	8%	15%	7%
% issued over 12 months	0.3%	17%	18%	0.06%
Average turnaround	2.5	5.6	6.7	4.5

OLSO investigations where complaints handling was satisfactory

	Apr 2003 to to Mar 2004	Apr 2002 to Mar 2003	Apr 2001 to Mar 2002	Apr 2000 to Mar 2001
Solicitors/OSS	53.3%	67.2%	57.9%	57.3%
Barristers/GCB	86.8%	88.4%	92.9%	94.7%
Conveyancers/CLC	66.7%	61.5%	60.0%	44.4%
All cases	57.5%	69.2%	60.9%	60.7%

OLSO outcome of investigations

Apr 2003 to Mar 2004	Recommendation		Criticism		Satisfactory		Total
OSS	553	36.7%	151	10.0%	804	53.3%	1,508
GCB	20	9.8%	7	3.4%	178	86.8%	205
CLC	3	33.3%	0	0.0%	6	66.7%	9
Scottish Law Society	2	22.2%	0	0.0%	7	77.8%	9
Total	578	33.4%	158	9.1%	995	57.5%	1,731



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- Further copies of this Annual Report Summary are available on request from the Office of the Legal Services Ombudsman.

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