



Front cover of the Annual Report
2005-2006



Striving for Excellence

Summary of the 15th Annual Report of the Legal Services Ombudsman for England and Wales

The Legal Services Ombudsman (LSO) is appointed by the Secretary of State for Constitutional Affairs and Lord Chancellor to oversee the handling of complaints about solicitors; barristers; legal executives; licensed conveyancers; patent agents and trade mark attorneys by the six professional bodies responsible for setting and maintaining standards of conduct and services 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 Zahida Manzoor CBE.

For many years the Ombudsman has argued strongly and passionately for reform of the regulation of legal services in England and Wales. She has been particularly vocal in the need for an independent complaint-handling body that would act as a single gateway for all consumers to have their complaints against members of the legal profession handled in an impartial, transparent and efficient way. A centre of excellence in complaint handling would restore consumer confidence and stop any perceived public concern about lawyers investigating complaints about fellow lawyers.

The Government published a White Paper in October 2005, "The Future of Legal Services: Putting the Consumer First". That White Paper sets out radical reforms to the way in which legal services may be delivered and regulated in England and Wales, including the creation of a new oversight regulator, the **Legal Services Board**, and a new independent complaint-handling organisation, **the Office for Legal Complaints**.

The Ombudsman believes the proposals put forward in the White Paper present a golden opportunity to establish a truly independent complaints-handling body that will restore consumer confidence and deliver a fair resolution to their complaints. However, she believes true reform needs to be properly funded.

The Ombudsman considers that the true test of the reforms will be that the consumer experiences the improvements to the legal system at the point of delivery and (though it is hoped that this is increasingly rare), fair and appropriate redress in the event that things go wrong. However, the principles and ambitions outlined in the White Paper must be delivered for the consumer without being compromised by self-interest or false economies in implementation and transition.

The Ombudsman is concerned that the new structure may end up merely being an exercise in tweaking what largely exists, but at the same time removing the only independent tier of regulation (the Office of the Legal Services Ombudsman and the Office of the Legal Services Complaints Commissioner).

From the cases the Ombudsman has investigated, she continues to see consumers experiencing problems with some legal professional bodies including; unnecessary delays in investigations; poor communications and unreasonable decision making. This was particularly evident this year in complaints that the Ombudsman received from former coal miners.

The Office of the Legal Services Ombudsman (OLSO)

OLSO began the reporting year with 496 cases from the previous year. The Ombudsman predicted that she would receive between 1500-1700 new cases during 2005/2006. OLSO accepted 1664 new cases between April 2005 and March 2006 and closed 1909. This means only 251 cases are to be carried forward into the next financial year.

OLSO has a target with the Department for Constitutional Affairs (DCA) of completing 90% of investigations within six months of receipt of the professional body's file. For the third year running this target has been exceeded, with 96% of the Ombudsman's reports issued inside that time period.

Significant emphasis has been placed on improving the speed of the service offered to consumers. Good progress has continued and improvements have been made this year with 63% of cases completed within three months, an improvement of 10% over last year. In the final three months of this year (Jan-Mar) the number of cases completed within three months was 75%.

The average time for all cases to be investigated and completed by OLSO for this year is 3.2 months, compared to 3.5 months last year. As at 1 April 2006 the average age of live caseload (that includes cases waiting investigation or under investigation) was 44 days.

During 2005/2006 the Ombudsman exercised her powers in 525 cases making 609 recommendations to the legal professional bodies. Overall this year she was satisfied in 68% of the cases that she investigated. The Ombudsman was formally critical in 4% and made recommendations in the remaining 28%.

Casework has been developed by ensuring that OLSO's investigating officers are kept fully informed about the prevailing issues within the legal sector. Internal casework surgeries attended by all investigating staff continue, and this year a number of guest speakers have delivered presentations at some of them.

The OLSO Casework Manual has been refined over the year, and a new Training Manual was developed to supplement the information provided in the Casework Manual.

The focus of Quality Assurance for 2005/2006 has been on casework and the accuracy of draft reports. During the year 98% of all draft reports achieved the standards set out in our Quality Assurance Framework, which demonstrates the focus on quality in OLSO's work.

OLSO has a set of internal service standards that define the speed and nature of service consumers should receive. These include:

- answering all correspondence within ten working days;
- answering telephone calls with six rings;
- advising consumers the likely length of time before their complaint would be investigated.

Review of complaints handling by the Professional Bodies

The Law Society

From April 2005 to March 2006 89.1% of OLSO's workload was from complaints referred by consumers who were unhappy with the Law Society's investigation into their complaint. The Ombudsman issued 1701 reports to complainants who were unhappy with the Law Society's handling of their complaints. This was an increase of 436 from last year. There has been an improvement in the percentage of satisfactory investigations up from 62% last year to 66.4% this year. However, the overall performance is well short of where a modern consumer focussed organisation should be.

Once again, this year the Ombudsman's recommendations highlight repeated instances of basic errors, poor administration, poor decision making and poor service on the Law Society's part.

During the year the Ombudsman recorded adverse findings in 492 of the 1701 reports she issued.

In 94 cases the Ombudsman found that the Law Society's investigation did not consider all of the issues which the complainant had brought to their attention. This means that a complainant who brought four main complaints to the Law Society's attention had at least one of them not looked into, or not covered in the decision made.

In a further 82 cases the Law Society's investigation either overlooked evidence in their possession or failed to reach a reasonable and well communicated decision to the complainant.

Of the cases referred to the Ombudsman by consumers many of them experience significant periods of avoidable delay, either before, during or after the investigation has been started by the Law Society. In some of these cases, not only has a delay occurred, but when it has, the Law Society have failed to keep the complainant informed about the delay, the reasons for it and when the next activity is likely to commence.

Between April 2005 and September 2005 the Ombudsman sent 92 cases back to the Law Society to be re-investigated. (This means they will have had at least six months to complete them as at the end of March 2006). 33 of these, or more than a third, have still to be completed. Of the cases completed it has taken on average more than four months to complete.

The Ombudsman yet again urges the Law Society to place greater emphasis on completing these investigations more quickly.

The Ombudsman is able to recommend that the Law Society pays compensation to consumers let down by its own service and she did that in 330 cases last year, totalling £143,645. The average award was £435.

The General Council of the Bar (the Bar Council)

The total number of complaints received by the Bar Council from consumers between April 2005 to March 2006 was 560. This compares to 455 received last year. The Bar Council closed 533 cases making their live caseload increase by 27 to 170.

The Bar Council continues to deliver good results in respect of speed of service. During the year some cases experienced significant periods of unavoidable delay due to a necessary restructuring of its Complaint Committee. The Ombudsman was pleased to see the Bar Council identifying these cases early on and offering appropriate amounts of compensation and keeping them informed of the progress of their complaints.

The Ombudsman has asked the Bar Council to maintain its focus on the turnaround time of its cases paying particular attention to those cases taking over 12 months to close.

During 2005/2006 the Ombudsman issued 183 reports to complainants who were unhappy with the Bar Council's handling of their complaint. This compares to 174 from last year.

The Ombudsman reports that she has seen an increase in the percentage of reports that she was satisfied with, up from 78.7% last year to 88% this year. The Ombudsman welcomes this improved performance.

During the year the Ombudsman recorded adverse findings against the Bar Council in 22 of the 183 reports she issued.

The Council for Licensed Conveyancers (CLC)

The total number of complaints received by the CLC from consumers between January 2005 to December 2005 was 190. This compares to 172 received the year before. The CLC closed 177 number of cases meaning their live caseload increased by 13.

The CLC's turnaround times worsened during the year with less than 25% being resolved within three months and only half being resolved within six months. The percentage of cases closed within twelve months slightly improved. Cases going over twelve months related to matters initially being referred to insurers.

The Ombudsman reports that this year she has seen a decrease in the percentage of reports that she was satisfied with.

Historically the Ombudsman has received only very few cases from the CLC and it is difficult to draw any conclusions because of this. However, over the past two years, the Ombudsman has only been satisfied in less than one third of cases (this year down to 22%).

During this year the Ombudsman recorded adverse findings in 14 of the 18 reports she issued.

Of the 14 recommendations the Ombudsman made this year, five related to poor decisions, mainly connected to issues not being considered by their investigation.

This year the Ombudsman saw the amount of unnecessary delay increase and seven of her recommendations related to this. A further three recommendations were in connection with the CLC not keeping the complainant up to date with progress.

During this year the Ombudsman conducted three second investigations from the CLC. She was only satisfied in one case. In the other two, the Ombudsman issued a formal criticism and a recommendation for the CLC to pay compensation to the complainant.

Institute of Legal Executives (ILEX)

OLSO did not receive any cases relating to the handling of complaints by ILEX. The Ombudsman is therefore not in a position to make comments relating to their process or procedures.

During 2005 the ILEX Investigating Committee considered 19 cases. There were a further 91 cases which were not referred to the committee or had not reached a stage where they could be referred.

The Chartered Institute of Patent Agents (CIPA)

OLSO did not receive any complaints about CIPA's complaint handling.

During 2005 CIPA only received six letters of complaint, none of them being from Patent Agent litigators. Two of these cases were submitted to the Disciplinary Board for consideration.

The Institute of Trade Mark Attorneys (ITMA)

During 2005 the Ombudsman's powers were widened to include complaints made against members of ITMA.

During the year the Ombudsman met with the President of ITMA and held exploratory discussions to better understand their role and membership.

Due to the nature of the Institute, ITMA did not have any complaints referred to it during the year.

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