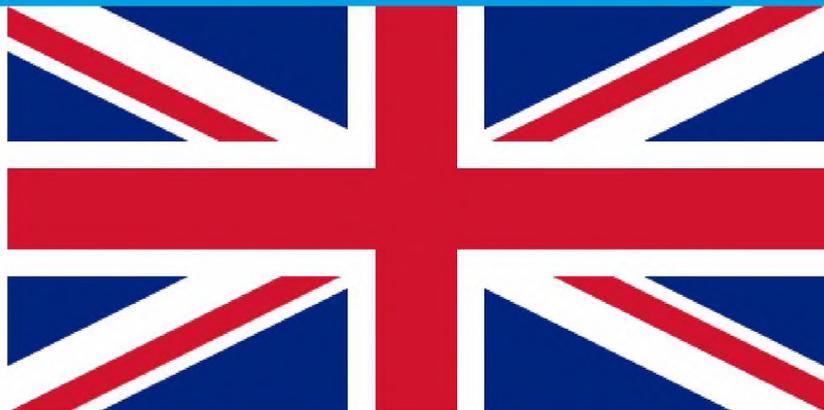


LeO Roars into Action



IN A WARNING SHOT ACROSS THE BOWS OF LEGAL PROFESSION OF ENGLAND AND WALES, LAWYERS WHO BRING THE PROFESSION INTO DISREPUTE BY PROVIDING POOR SERVICES WILL NO LONGER ESCAPE HAVING THEIR KNUCKLES RAPPED, THE NEW TOP LEGAL PROFESSION WATCHDOG WARNED AS HIS OFFICE WAS FORMALLY LAUNCHED ON 6TH OCTOBER.

Lawyers who bring the industry into disrepute by charging huge prices for services will no longer get away with it, according to the new Legal Ombudsman (LeO) for England and Wales. Chief Ombudsman Adam Sampson has said that he will crack down on those lawyers who choose profit over good service and predicts they will deal with more than 100,000 cases a year.

With a mantra of 'Fair, open, effective, shrewd and independent' Mr. Sampson believes that one of LeO's important jobs is to help protect the vast majority of lawyers who really want to do a good job from the small number of lawyers who are in it from bad motives and who can bring down the reputation of the profession as a whole.

A Woeful Tale

Adam Sampson freely acknowledges that his new job as legal ombudsman is potentially a poisoned chalice. One of the main catalysts of the Legal Services Act (LSA), which brought LeO into existence, was 'the woeful record on complaints-handling of the Legal Complaints Service and predecessor bodies'.

The LSA has taken responsibility for complaints-handling out of the hands of the profession, placing it squarely at LeO's door.

Adam Sampson has been highly critical of the previous complaints-handling regime, particularly of its ineffective and arbitrary nature, referring to the previous system of complaints as "bewildering and very inefficient", with a "woeful record" of dealing with the concerns of the public. The former chief executive of homeless charity Shelter has gone further still, using the word 'scandal' to describe the profession's past inability to get its house in order.

Fairly and Quickly

LeO's focus is to resolve complaints quickly and fairly. They have worked hard to make sure they bring a fresh approach to legal complaints with a focus on justice.

LeO provides an independent sounding board for complaints about lawyers working in England and Wales, marking the first time that consumers can seek free advice from an impartial body to help resolve issues around unsatisfactory legal services.

The consumer now has a one-stop point of contact, instead of the previous confusing situation of eight, and the process will also be a smoother one for the legal profession. Lawyers will have eight weeks to resolve a complaint in-house before the client may go to the Ombudsman.

There will no longer be lengthy to-ing and fro-ing between the parties; complaints will not stretch on for months (not that many do now, in fairness to the existing bodies). Miss a deadline and, unless the lawyer has a very good excuse for doing so, the Ombudsman will make his decision without their input. The only remedy then will be judicial review.

Former complaints bodies did not have statutory authority, but LeO's powers are enforceable in court.

Any Which Way?

Consumer group **Which?** Claim that LeO's powers, including awarding up to £30,000 (nearly \$50,000) compensation, are not enough. They have also asked LeO to "name and shame" by publishing complaints data, as the Financial Ombudsman has recently started doing following

years of lobbying.

Over a decade ago, the then Lord Chancellor, Lord Irvine, gave the Law Society until the end of 2000 to sort out complaints handling or it would lose part of its regulatory powers. Four years later, *Which?* identified the profession's continued failure to deal with unhappy clients as 'the greatest threat to self-regulation', and ministers threatened the Law Society with a £1m fine if it failed to address the problem. The LCS did improve the situation, but the damage had been done.

Cultural Change

Recruiting a 350 strong team is not without its difficulties. Only 50 have been drawn from predecessor body the LCS. Some did not want to make the move from Leamington Spa to Birmingham; but the key stumbling block appears to be that LeO pays less than the LCS, reflecting the local job market with investigator salaries starting in the low £20,000s.

There has also been unwillingness on the part of some to embrace cultural change and join an organisation that is going to do something in a very different way from the past

Public perception of LeO is also a vital issue. It is important for the new organisation is viewed as a lay organisation rather than a legal one and not to be encumbered with the cultural baggage of the old organisation. So, a conscious effort has been made to make a distinction between the culture and people.

Individually, people can be fantastic, but too many people with an existing set of assumptions automatically bring the culture from elsewhere. This is of particular importance as consumer groups have been highly critical of past arrangements, the LCS and all the predecessor bodies. Adam Sampson was unwilling to expect

people to have trust in these new arrangements, if they were solely staffed by the same old people.

What can the Profession expect from LeO?

The new body is a single Ombudsman scheme covering consumer complaints about all lawyers, barristers, licensed conveyancers, and legal executives, and promises to be independent and impartial.

As before, there is a volume call-handling 'front end', fielding the anticipated 100,000 'contacts' a year (letters, emails and phone calls). This is being whittled down to about 15,000 to 20,000 cases that fall within scheme rules to investigate. The remaining 85,000 people are being directed to other sources of help. The complaints-handling process then investigates and then resolves by agreement if possible, those cases that are within the scheme. Intractable disputes go to the Ombudsman for a full decision.

The style of the operation is very different to the kind of experience that lawyers have had previously. LeO isn't part of the profession, unlike the LCS which is owned and still feels like part of the legal family. It is necessarily and overtly independent, informal and inquisitorial. The draconian formal and legalistic paper based process has been replaced.

LeO is interested in finding out the facts of what happened. Both parties are then given the opportunity to comment on what LeO believes they have found. They prefer to deal with things by phone and email rather than formal, written letter. Where phone calls are made, they are not to be transcribed. Instead they will be recorded as voice files and attached to the notes in case of a challenge. Everything is designed

to be paperless.

Some of LeO's approaches will probably challenge the cultural assumptions of the profession. The purpose is not to come up with 'a binary answer' ('yes/no' or 'guilty/innocent') because professional services complaints are often not clear cut.

Another issue that some solicitors might struggle with is that LeO is not a rules-driven organisation. The Ombudsman is not interested in whether lawyers have followed every detail of guidance from the Solicitors Regulation Authority. Anyone can follow the rules and still provide a poor service. Likewise, you can ignore the rules with contempt but provide fantastic customer service.

It is the quality of service provided that matters to LeO. The notion of customer service is commonplace outside of the legal arena and lawyers must take that notion on board.

Alex Sampson is not a lawyer but has strong views about the profession, having worked with lawyers for many years on the frontline in prisoners' rights and human rights, and housing. The charity Shelter had 35 solicitors and 600 people who, in a law firm, would be described as "paralegals. Every one of them worked out of a sense of mission and a desire to help, even at 2am on a weekend with a stream of refugees who had emergency housing needs. Those clients had nowhere else to go and those lawyers were not taking advantage.

English and Welsh lawyers can expect greater scrutiny of their own complaints-handling. To the profession's advantage, they can no longer be blamed for a structural failure to handle complaints. LeO is now a scapegoat for that!

Breaches of professional conduct or negligence will continue to be dealt with by the appropriate regulatory body or tribunal. ●