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**LEGAL SERVICES
BOARD**

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27 January 2012

Dear Elizabeth

Section 120 report: complaints outside of jurisdiction

This letter includes a formal notice of the requirement for the Office for Legal Complaints to provide a report to the Legal Services Board for publication under Section 120 of the Legal Services Act 2007. The request is in relation to the matter of complaints received by the Ombudsman scheme that are not within its jurisdiction.

You will recall that the Board determined in July 2011 to request a Section 120 report setting out in particular details of complaints that the Legal Ombudsman has received where the complainant has thought that they are purchasing a legal service from a lawyer covered by the Ombudsman scheme when in fact they are buying a service from an unregulated provider and therefore no such redress is available. You welcomed this proposal.

This decision emerged as part of the Board's consideration of the consultation response to its discussion document, "Developing Regulatory Standards", notably the Ombudsman's response in which he reported an increasing number of such cases and speculated that the number may increase further as the legal services market develops and produces new delivery models. Since then the Ombudsman has continued to raise concerns, for example in response to the Board's discussion document "Enhancing consumer protections, reducing regulatory restrictions" and call for evidence for our investigation into will-writing, probate and estate administration. The Ombudsman's draft Strategy (2012-2015) and Business Plan (2012-2013) make clear that this issue remains a priority for the Ombudsman.

We have also read with interest the University of Leicester research "Mapping potential consumer confusion in a changing legal market". This includes a recommendation that the Board and the Ministry of Justice review redress

arrangements given existing gaps and anomalies particularly in light of developments in the way that legal services are delivered. We are considering this further in the context of our work on scope of regulation, in which we are now analysing whether it is possible to provide more consistent access to redress without imposing the full panoply of regulatory requirements on all forms of legal provision.

We therefore believe that the time is now right to require a formal report to assist our understanding of the issues. The information we are specifying for inclusion in the report includes both qualitative assessment and data about the frequency of the issues broken down by key features such as provider type, consumer type and legal activity / area of law. We also require details of the OLC's analysis of the causes and any further information that believes will be of assistance to us.

We understand that the Ombudsman does not systemically record the information that we are requesting at present. However, we believe that there are reasonable and proportionate options open to the Ombudsman to comply with the Section 120 requirement. For example:

1. Compile a report using any relevant information that the Ombudsman does hold routinely
2. Collect data in some way over a specified four month period beginning in March 2012
3. Compile a report based on a survey of staff

You may conclude that one of these options or a combination of the three would be most effective and that there are other routes available. I would be grateful if your response could specify how the data has been compiled and the OLC's thinking on how to respond to the University of Leicester recommendation that the Ombudsman should systematically record relevant information on an on-going basis, with which the Board has considerable sympathy.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Chris Kenny', with a long horizontal stroke extending to the right and a shorter one below it.

Chris Kenny
Chief Executive

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Annex A: Reporting Requirement: Section 120 Legal Services Act 2007

1. This Notice is served on the Office for Legal Complaints (“the OLC”) by the Legal Services Board (“LSB”) under Section 120 of the Legal Services Act 2007 and requires you to prepare and give to the LSB a report in respect of the matters specified in paragraph 2, within the period specified in paragraph 3.
2. The OLC must prepare and give a report (in PDF or Word format) providing the following specified information and any other qualitative and factual detail which the OLC considers relevant to the LSB’s investigation-
 - An assessment of the number and proportion of complaints received by the Legal Ombudsman which it has concluded fall outside of its jurisdiction for reasons other than being out of time or having failed to complete the first tier complaints process;
 - A breakdown of the types of consumers¹ making complaints within this description;
 - A breakdown of the areas of law and legal activities involved in complaints within this description;
 - A breakdown of the types of provider² that are being complained about in complaints within this description;
 - A breakdown of the reasons why complaints within this description fall outside of jurisdiction;
 - Any common features of business models within this description that the Ombudsman believes is causing confusion (including where services are being delivered through the web), the extent to which the Ombudsman believes that this confusion may be being deliberately fostered and how the Ombudsman reacts in relation to such cases;
 - An assessment of the number and types of complaints within this description where the Ombudsman believes that the consumer has experienced confusion over their right to redress caused by the overlap between unregulated and regulated services;
 - Any other information that the Ombudsman thinks will assist our understanding of the problems, their frequency, the causes and the impacts regarding complaints within this description;

¹ The LSB has not prescriptively defined terms such as type of consumer, type of provider etc within this request. The OLC should categorise in a way that is practicable and it believes is most likely to meet the aims of this request.

² See footnote 1 above.

- The action taken by the Ombudsman where complaints fall outside of his jurisdiction including signposting or referral to other specified bodies.
 - The report should be as comprehensive as possible in its time coverage, but, as a minimum, must cover complaints received over at least a four month period from the past twelve months or complaints received in the period running from 1 March 2012 to 1 July 2012.
3. You are required to provide your report to the LSB by 1 August 2012.
 4. The LSB reserves the right to amend or revoke this notice, by giving further notice to the OLC.

Legal Services Board

January 2012