



The Law Society

First-Tier complaints handling: LSB requirements for approved regulators

The Law Society response

27 April 2016



The Law Society of England and Wales ('the Society') is the professional body for the solicitors' profession in England and Wales, representing over 160,000 registered legal practitioners. The Society represents the profession to parliament, government and regulatory bodies and has a public interest in the reform of the law.

We would be interested to know the cost of the Legal Services Board's (LSB) work in this area. The LSB has justified its continued interest in it on the basis that signposting to the Legal Ombudsman is inadequate. We note that many of the statistics used by the LSB relate to the period when the Legal Ombudsman was set up. More recent data from Legal Ombudsman indicates that, when Legal Ombudsman asked complainants where they had heard about the Ombudsman, 23% stated that it was through their lawyer. A slightly higher percentage of complainants referring a complaint to the Financial Ombudsman Service had heard about them through a financial business (30%¹). We do not believe that this data provides sufficient evidence that solicitors are not informing clients of their right to complain to the Ombudsman. Moreover, the Legal Ombudsman could ask complainants if their lawyer told them about the service, as this would yield more accurate results. Given that lack of evidence, we are unsure why the LSB has chosen to expend resources in this area.

Proposed changes to LSB requirements and outcomes

The LSB put in place prescriptive rules relating to signposting to Legal Ombudsman in May 2010. The Law Society questions the need to retain the current LSB requirements given that all frontline regulators have put in place regulatory requirements in relation to signposting to Legal Ombudsman. The current rules, as drafted, mean that all clients must be informed of their right to make a complaint to the Legal Ombudsman. However, many clients do not have this right, as most businesses are excluded from the service. If prescriptive rules are to remain in place, then there is a risk that further clients are told about an option to resolve a complaint that is not open for them to use.

Proposed changes to guidance for achieving outcomes

We recognise there is a role for frontline regulators to play in providing guidance to authorised persons on complaints-handling alongside representative bodies and the Legal Ombudsman. However, we do not believe that the LSB's guidance is necessary and in areas such as guidance on signposting, there is a risk of regulators duplicating guidance that is already provided by the Legal Ombudsman and the representative bodies.

The guidance indicates that frontline regulators should collect data on first tier complaints. The consultation document provides no information as to the value of this information to regulators or the costs of collecting and assessing this data to both the regulator and authorised persons. We are aware that this data has been collected by the SRA in the past but it is not clear what use is made of this data. Concern has been expressed about the quality of data that is collected, given firms' differing approaches to recording complaints and thus the value of the data.

¹ Financial Ombudsman Service (2015) Annual Report 2014/2015 <http://www.financial-ombudsman.org.uk/publications/ar15/complained.html#a1e>

Before the LSB requires the collection of data, a full assessment of the cost benefit of collecting such data should be undertaken.

The LSB refers to approved regulators (ARs) throughout the consultation. However, in some cases they are referring to frontline regulators. The LSB should ensure there is clarity about who is being referred to in consultations and that it is accurate and consistent with the terminology in the Legal Services Act.