

**Meeting:** Legal Services Board

**Date:** 18 July 2023

**Item:** Paper (23) 43

**Title:** Consumer Redress

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**Status:** Official

## Introduction

1. This paper seeks Board's approval to proceed to consultation with a suite of documents relating to first tier complaints.

## Recommendation(s)

2. The Board is asked to:
  - **Discuss** the draft section 112 Requirements, draft s162 Guidance, draft Statement of Policy and draft consultation document (Annexes A-D), and
  - **Agree** these documents as the basis for consultation, and delegate to the Chief Executive approval of final changes prior to publication.

## Timing

3. Subject to Board approval, the documents above will be issued for a 12 week consultation in August. We anticipate that, subject to consultation responses, the final proposals of the Requirements, Guidance and Statement of Policy will be submitted to Board for approval in early 2024.

## Background

4. Our work on consumer redress seeks to promote all the regulatory objectives, in particular protecting and promoting the interests of consumers and the public interest, and improving access to justice. It also links to the challenges in the Reshaping Legal Services strategy to close gaps in consumer protection and ensure high quality legal services. Our overriding policy objectives in this work are to foster a step-change improvement in first tier complaints resolution in the legal services sector, and to support the development of the best possible redress system for legal services users.

Our policy proposals have been informed by desk research<sup>1</sup> as well as new primary research<sup>2</sup> into what good redress might look like for consumers.

5. At its last meeting, Board agreed to develop the documents listed in paragraph 2 for consultation. At this meeting, it was also agreed that work could commence on an additional strand of work: the convening of a coalition of stakeholders, including regulators, representative bodies, the Legal Ombudsman, the Legal Services Consumer Panel and consumer organisations, with a view to collectively agreeing a public commitment in support of improved complaints resolution. Board is advised that work on this coalition-building has now commenced and letters will be sent out to stakeholders shortly.
6. While focused primarily on first tier complaints, this work has a strong connection to second tier complaints (complaints which have been escalated to the LeO), as the way in which first tier complaints are handled can have a consequential effect on the number and nature of complaints that are escalated to LeO. There are also synergies between our work on first tier complaints and LeO's interim strategy for 2023/24<sup>3</sup>, which includes consideration of how LeO can work collaboratively to support improvements in the legal sector and how LeO's insights from its experience of resolving complaints, including advice on good complaints handling, can have the most impact.

## Proposals

7. The LSB has existing statutory Requirements and Guidance on first tier complaints (Annex E), which were issued in 2016. The current Requirements are relatively limited, with the provisions relating only to the information that approved regulators must ensure that authorised persons provide to clients about first tier complaints. The current Guidance contains some more detail on other considerations relating to first tier complaints, but compliance with these is not mandatory. The draft Requirements are more extensive than the current Requirements, incorporating some of the content that was previously in the current Guidance as well as some new areas that our research and evidence base has indicated would be beneficial to furthering the interests of legal services users and the wider public.
8. The policy aim behind the draft Statement of Policy is to foster a culture of learning from complaints and, in so doing, support improved legal services for the public. To this end, the draft Statement of Policy sets out outcomes that regulators must pursue in identifying and addressing issues and good practice that arise from first and second tier complaints. It also aims to strengthen the incentives for legal services providers to deal swiftly and efficiently with complaints by setting an expectation that regulators will collect and publish

<sup>1</sup> [First tier complaints desk research report](#), LSB Board papers October 2022, paper (22) 55 - Annex B

<sup>2</sup> Improving service complaints in legal services (2022) [to be published on LSB website presently]

<sup>3</sup> [Office for Legal Complaints, Strategy 2023-24](#)

information about providers' resolution of complaints within the existing eight week timeframe before complaints may be escalated to LeO.

### Next steps

9. Subject to Board approval, the documents will be issued for a 12-week consultation in early August. We plan to run a stakeholder engagement event in the early autumn, during the consultation period.

| <b>Risks and mitigations</b>          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|---------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Financial:</b>                     | No specific considerations or risks arise.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <b>Legal:</b>                         | The proposals present an opportunity to update the statutory Requirements and Guidance as well as introducing a supporting Statement of Policy. The draft Requirements and Guidance are more detailed than the existing arrangements and, given the practical implications to the regulated community, may incur an increased risk of challenge. Mitigating steps include evidence provided in the consultation document in support of the proposals and the legal team remain engaged throughout the process to provide advice and support as appropriate. |
| <b>Communications and engagement:</b> | <p>As well as the separate strand of work in building a coalition of stakeholders to agree common aspiration, we intend to run a stakeholder engagement event in the early autumn specifically in relation to this consultation.</p> <p>The Community Research primary research report will be published following the Board meeting.</p>                                                                                                                                                                                                                   |
| <b>Equality and diversity:</b>        | One of the objectives of this project is to ensure that consumers of all backgrounds can easily access quick and fair redress. The Consultation Document includes an equality impact assessment and we will seek responses on EDI impacts as part of the consultation.                                                                                                                                                                                                                                                                                      |
| <b>Resource:</b>                      | The expansion of the scope and objectives of this project may have an impact on resourcing, but this will be managed within our resources and usual prioritisation of activities.                                                                                                                                                                                                                                                                                                                                                                           |
| <b>Environmental:</b>                 | No specific considerations or risks arise.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |

### Annexes

Annex A – Draft section 112 Requirements for approved regulators' regulatory arrangements for authorised persons' complaints procedures on first tier complaints;

Annex B – Draft section 162 Guidance on section 112 Requirements for first tier complaints;

Annex C – Draft Statement of Policy - first tier complaints;

Annex D - Draft consultation document;

Annex E - First-tier complaints handling: section 112 requirements and section 162 guidance for approved regulators (22 July 2016)

| <b>Freedom of Information Act 2000 (Fol)</b> |                                  |                |
|----------------------------------------------|----------------------------------|----------------|
| <b>Para ref</b>                              | <b>Fol exemption and summary</b> | <b>Expires</b> |
| Annex A                                      | s.22 future publication          | N/A            |
| Annex B                                      | s.22 future publication          | N/A            |
| Annex C                                      | s.22 future publication          | N/A            |
| Annex D                                      | s.22 future publication          | N/A            |