SCHEME RULES UPDATE

1. Introduction

1.1. In April 2023 LeO launched its revised Scheme Rules which were designed, primarily, to help encourage the early and proportionate resolution of complaints.

1.2. Although there were a range of changes to the Scheme Rules, the key provisions were:

Time limits:

- Reducing the time limit for bringing a complaint to LeO to 12 months from date of incident or date of awareness.

Ombudsman discretion to dismiss a complaint:

- Extending the application of Scheme Rule 5.7 to allow an Ombudsman to consider dismissing a complaint if:
    - the impact on the complainant was not deemed significant,
    - the complaint raised was so large, complex and time consuming to be a disproportionate use of LeO's time and resource,
    - there was an unreasonable delay on the complainant's part in raising new heads of complaint.

Right to an ombudsman's final decision:

- Revising the application of Scheme Rules 5.19 and 5.20 to deem an investigation as being concluded by the investigator's findings if neither party raises any substantive objections or new evidence in response to the case decision.

1.3. LeO has been actively monitoring the impacts of the Scheme Rules changes to ensure that any unintended consequences, particularly on access to justice across all customer groups, are understood and if necessary mitigated. The available data has provided assurance that the impacts of the changes appear to be affecting all different groups of LeO's customers equally.

1.4. In quarters 1 and 2 of 2023/24 LeO adopted a transitional approach to the application of the new time limits provisions. This resulted in an influx of requests for discretion to accept a new complaint out of time and a spike in demand within LeO's General Enquiries Team. Through the agile deployment of resource that spike was successfully addressed by the end of quarter 3. As expected, once the transitional approach was phased out (from quarter 3 onwards), LeO saw the levels of out of time applications reduce. However overall numbers of new complaints still remained high which suggested a possible increase in the underlying demand for LeO's service. In March LeO saw the first marked drop in the overall numbers of new complaints received when compared to the same period in previous years. LeO will be monitoring numbers of new complaints received to see if March’s figures are the start of a trend in reduced levels of demand.

2. Impacts of Time Limits changes

2.1. During quarter 1 and quarter 2 of 2023/24 LeO adopted a transitional approach to the application of its new time limits which enabled customers to submit an online complaint form irrespective of whether the complaint fell outside of the new time limits. LeO actively approached those customers to assess if, in the circumstances, it was fair and reasonable to apply discretion to extend its time limits. This approach meant that the risk of an adverse impact on access to the scheme in those early months was mitigated. However, this approach also meant that of the online complaint forms submitted across quarters 1 and 2, LeO received a total of 900 (18%) that were outside of the new time limits provisions and required a discretion decision.

2.2. To mitigate the risk of delays to the progression of these new complaints, LeO temporarily deployed a group of investigators to support the General Enquiries Team. LeO is aware that deploying investigator resource to this workstream has impacted the numbers of case closure numbers across quarters 1-3. These historic discretion requests have now been cleared and with the number of new discretion requests at a much lower level, it has been possible to return the deployed investigators to their substantive roles.

2.3. In quarters 1 and 2 respectively LeO received 1871 and 2198 online complaints that were in-time based on the information provided (against a total of 2357 and 2613 complaint forms received). With complaints where discretion was approved included, those numbers increased to 2180 and 2546. Whilst these figures are slightly lower than the levels of new complaint forms received in 2022/23, they still remained ahead of the levels seen in previous years.

2.4. As planned, from the start of quarter 3, LeO has moved away from its transitional approach and now requires customers whose complaints fall outside its time limits to request the exercise of discretion before their complaint can be accepted.

2.5. In quarter 3 LeO received 2192 in-time online complaint forms with that number increasing to 2338 in quarter 4 (compared to 1871 and 2198 received in quarters 1 and 2 respectively). In total, across quarters 3 and 4 the number of out of time complaints received reduced to 164 (from 900 in total across quarters 1 and 2). Discretion was exercised in 134 (80%) of cases across quarters 3 and 4 (compared to 73% of cases across quarters 1 and 2)

2.6. Although the total number of complaint forms received in the second half of the year dropped by 5% compared to the first half, the number of in-time complaint forms received increased by 12%. LeO is aware that historically quarters 3 and 4 are its busiest quarters and this seems to have been reflected in 2023/24.

2.7. It is also worth noting that the number of in-time complaint forms received in March dropped by over 13% compared to the number seen in January.

2.8. We will continue to monitor numbers of receipts into 2024/25 to see whether the increase in overall numbers seen across quarters 3 and 4 or the reduction seen in January are indicative of a trend.

2.9. As well as customers applying via its online complaint form, LeO also receives a significant amount of correspondence each month through more traditional channels.

2.10. The online complaint form has the benefit of ensuring that customers who do apply are ready to do so and are more likely to fall within LeO's jurisdiction. For customers applying by more traditional channels, a significant proportion are either not for LeO or are not ready to be accepted. On average LeO receives around 750 new contacts each month by these traditional channels but on average around 85% of those new contacts are either not ready to be investigated or not for LeO. It is important to note that for a number of the customers who initially approached LeO by traditional channels, when they were eventually ready to bring a complaint to LeO they did so by way of the on-line complaint form.

2.11. Given the variability of information received by these more traditional channels, it is important to note that the time and resource taken to process a contact by more traditional channels is greater.

2.12. In the first six months of 2023/24 on average around 11% of the new complaints received (80 per month) were in-time and in jurisdiction whereas in the second six months that figure dropped to around 6% (just under 50 per month). LeO will track this data going forwards to see if it is reflective of a trend.

2.13. Of the out-of-time complaints received over the year, discretion has been exercised in around 2% of cases each month (11 cases per month).

2.14. Given the changes to LeO's approach to the exercise of discretion in complaints received online, there was a risk that LeO would see an increase in the amount of contacts via more traditional channels and in the number of requests for the exercise of discretion. Although LeO has seen an increase in the number of approaches via these traditional channels in quarter 4, it is not possible as yet to determine if this increase is being driven by the changes to LeO's online complaint form or simply a seasonal variation. LeO will continue to track the number of complaints being received by traditional channels.

3. EDI impacts of Rule changes

3.1. LeO continues to take steps to ensure that it can identify and take mitigating actions if any of the changes to its time limits (or any other of the changes to its scheme rules) appear to be having a disproportionate impact on any group(s) of its customers.

3.2. To understand the impact of the changes on customers' access to the Scheme, LeO captures EDI data when customers first seek to use its online complaint form. As customers using traditional channels do not have access to the online EDI survey, it is not possible to collect EDI data for this group of LeO's customers at this stage.

3.3. The response rate to LeO's online EDI survey has been consistent at 36% since the launch of the scheme rules. The data received shows that, for those customers who apply on-line, the changes to LeO's time limits is consistently impacting 10% of customers across all groups(s). This data has enabled LeO's EDI team to provide assurance that the changes are not disproportionately impacting access to the scheme for any particular group(s) of LeO's customers.

3.4. The data collected via the online EDI survey is anonymous and cannot be linked to a specific case or customer. As a result, LeO is currently not able to use this data to track the EDI implications of the changes to its scheme rules as a case progresses through its investigation process. In an effort to overcome this, EDI data, is collected, for a second time once a complaint is assessed as being within LeO's jurisdiction. This data can be linked to a case file, however, the response rate to this second survey is significantly reduced (4%) and this low collection rate presents challenges when trying to draw any reliable conclusions on the EDI implications of the new rules once a complaint is passed for investigation.

3.5. LeO's EDI team is actively working on ways to improve the response rate to the second survey and in the longer term LeO is also looking at introducing new technology which will enable the data provided in response to the initial survey to be linked to cases and used for reporting purposes.

4. Impacts of other changes

4.1. The new scheme rules can only be applied to complaints received after 1 April 2023. As a result, the additional scheme rules changes, designed to improve the efficiency of LeO's investigations and encourage earlier resolution of complaints (such as SR5.19/ 5.20), cannot yet be applied to the cases that are currently being investigated.

4.2. Although some new scheme rules cases are starting to come through to investigation, it is not envisaged that LeO will start to see the application of rules like SR5.19/5.20 in any significant number until early 2024/25. This means that the added operational efficiencies that this rule will bring have not yet become apparent. In the meantime, however, LeO is taking the opportunity to train staff up on the application of the new scheme rules to ensure that opportunities for increased efficiency can be optimised when they become available.

5. Summary

5.1. The data that has been collected and analysed over the last financial year shows that the effects of the changes, particularly to LeO's time limits are being felt consistently across all of its customers and provides assurance that there is no evidence of a disproportionate impact on any group(s).

5.2. The impact on operational delivery, of deploying additional operational staff to handle the discretion checks that were raised in quarters 1 and 2, was kept to a minimum and as that work has been cleared, those staff have returned to their substantive roles.

5.3. LeO has seen an increase in the number of in-time complaints received via its online complaint form. We are conscious that quarters 3 and 4 are the busiest quarters in any year and it is possible that the increase in complaints received could simply be reflecting that annual trend. LeO also saw a significant drop in the number of new complaints received in March and again this will be monitored to see if it is reflective of a beginning of a trend. It is important to note that not every complaint form submitted online will result in a complaint that LeO can investigate, however, the numbers being received remains high and this suggests that underlying demand for LeO's services continues to remain high and may be counteracting the impact of changes to the time limits provisions.