

Legal Ombudsman

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# Report under section 120 of the Legal Services Act 2007: complaints outside the Legal Ombudsman jurisdiction

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LEGAL  
OMBUDSMAN



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# Section 120 request

## Complaints outside the Legal Ombudsman jurisdiction

The section 120 request<sup>1</sup> required the OLC to report in detail about complaints received by the Ombudsman scheme, which are not within its jurisdiction as set out in Part 6 of the Legal Services Act 2007. This report brings together evidence in the form of individual case studies together with data from the Legal Ombudsman scheme. It is enhanced by a commissioned report that maps experiences of customers who came to the Ombudsman scheme but who fell outside of our statutory jurisdiction.

### Introduction

The LSB confirmed its section 120 request to the OLC in a letter of 29 March 2012. In that letter it stated that it is primarily interested in incidents where the complainant has thought that they are purchasing a legal service from a 'lawyer' covered by the Ombudsman scheme (as set out in Part 6 of the Legal Services Act 2007) but are actually buying from an unregulated provider so no such redress is available.<sup>2</sup>

To answer this request, the OLC sought evidence that would give some insight into existing gaps and overlaps and subsequent consumer confusion about how to access redress and regulation due to the way legal services are delivered.

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<sup>1</sup>See Annex 1

<sup>2</sup> See Annex 1

## Methodology

The decision to commission external research to deliver the key aspects of this project was based on evidence from an initial scoping exercise. This approach, of using Legal Ombudsman data supplemented by qualitative research completed by an external company, was chosen to enable the Legal Ombudsman to respond to the information request, as well as use the findings to augment learning in the scheme. This approach also represented best value for money.

After discussion with the LSB about the remit of the section 120 report request and the proposed methodology, with their agreement the data and research included in this report covers out of jurisdiction complaints from 1 September 2011 up to 31 August 2012.

The research aims set by the Legal Ombudsman are included below. Legal Ombudsman research aims:

- 1 To provide an assessment of the number of complaints received by the Legal Ombudsman that fall outside of our jurisdiction due to consumer confusion around regulatory boundaries i.e where the complainant has thought that they are purchasing a legal service from a 'lawyer' covered by the Ombudsman scheme, but are actually buying from an unregulated provider where no such redress is available.
- 2 To provide an overview of the types of complainants who are making these complaints.
- 3 To provide an assessment of the types of providers, areas of law and activities being complained about and the business models and structures that are causing confusion.
- 4 To provide a commentary on the action taken by the Ombudsman where complaints fall outside of our jurisdiction including signposting or referral to other specified bodies.

Additional research aim:

- 5 To provide a commentary on any other information that the Ombudsman thinks will assist the LSB's understanding of the problems, their frequency, the causes and the impacts regarding out of jurisdiction complaints.

For the purpose of this project the term 'out of jurisdiction' is used to refer to those complaints which fall outside of our jurisdiction as set out in Part 6 of the Legal Services Act 2007 due to consumer confusion around regulatory boundaries.<sup>3</sup>

In the next section, we set out data from the Ombudsman and analyse the qualitative research commissioned to support this report. The next section then set out the stories of six individuals who came to the Legal Ombudsman but whose complaints were outside its jurisdiction. These are included here to illustrate the cases we see and to provide context to data analysis. The report concludes with lessons learned by the Ombudsman.

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<sup>3</sup> It should be noted that the term 'out of jurisdiction' is used to refer to those complaints which fall outside of our jurisdiction due to consumer confusion around regulatory boundaries. This was clarified with the LSB and does not include complaints that fall outside our jurisdiction for other reasons, for instance, that time limits requirements set out in Chapter 4 of the scheme rules were not met.

# Data analysis

## Introduction

In this section, we share Legal Ombudsman data and draw on evidence from other sources, including the Research by Design survey<sup>4</sup>. The previous section featured case studies, drawn from the Ombudsman scheme case management system, which echo the issues raised in this data analysis.

## **Summary of Legal Ombudsman resolution of complaints ‘in jurisdiction’**

In the financial year 2011/12, the Legal Ombudsman:

- received 75,420 contacts from consumers;
- accepted 8,420 cases for investigation; and
- resolved 7,455 cases.

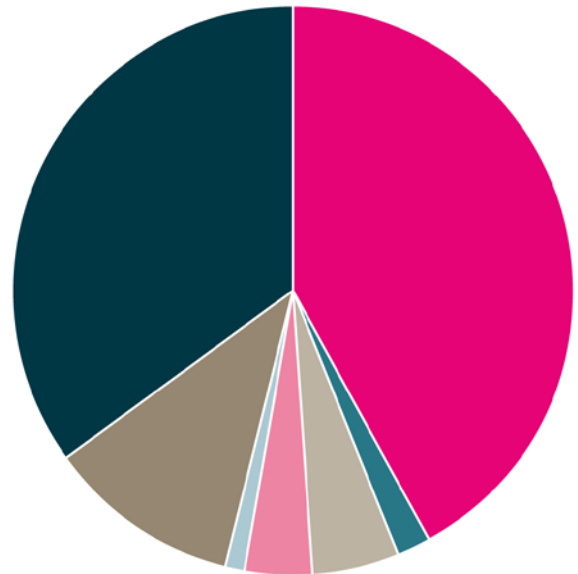
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<sup>4</sup> Annex 2

The following graph shows how we resolved the cases.

### How we resolved the cases

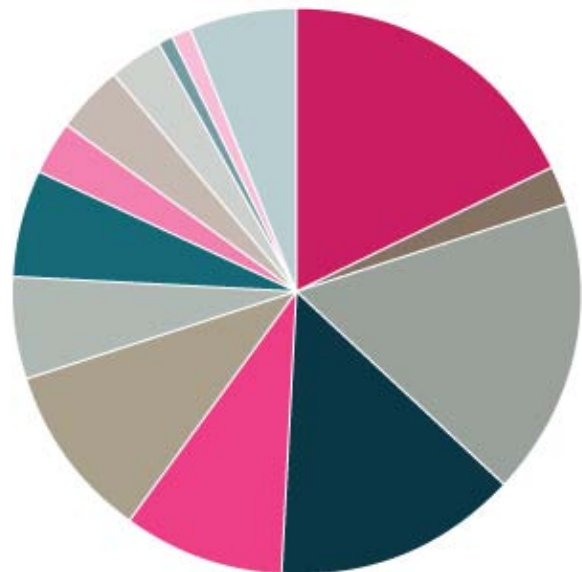
- Informal resolution, 42%
- Ombudsman decisions, 35%
- Complaint withdrawn, 11%
- Ombudsman's decision to dismiss/discontinue, 5%
- Complainant failure to respond, 4%
- Resolved without intervention, 2%
- Complainant unable to proceed, 1%



We also record what the complaints are about by area of law. The following graph shows what this currently looks like:

### Closed cases by area of law resolved in 2011 - 12

- Family law, 18%
- Commercial conveyancing, 2%
- Residential conveyancing, 17%
- Wills and probate, 14%
- Litigation, 9%
- Personal injury, 10%
- Crime, 6%
- Employment law, 6%
- Immigration and asylum, 3%
- Property, 4%
- Social welfare, 17%
- Consumer law, 1%
- Commercial law, 1%
- Other, 6%



This provides some context for the questions posed in this report, demonstrating the legal areas most commonly complained about by consumers of legal services.

It may also be useful to note the broader context available from the Legal Ombudsman customer satisfaction survey for 2011/ 2012.<sup>5</sup> Key demographic information about complainants includes:

- A fairly even mix of males and females;
- 59% being 26-55 year olds; and
- 15% from Black and Minority Ethnic (BME) groups (including 4% of Indian, 3% of Pakistani, 3% Caribbean, 2% African and 2% of mixed race origin).

In terms of channels of communication and complainants' knowledge of the Legal Ombudsman:

- 91% were making their first complaint to the Legal Ombudsman;
- 27% say they were told about the Legal Ombudsman by their solicitor (with or without prompting); and
- Other main sources of information about the Legal Ombudsman were from friends/family (23%) and internet searches/Legal Ombudsman's website (30%).

Overall, more than seven in ten complainants (72%) are satisfied with the professional service provided by the Legal Ombudsman, while just under three in ten (28%) are dissatisfied. Eight in ten lawyers (80%) are satisfied with the professional service provided by the Legal Ombudsman, while one in five (20%) are dissatisfied.

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<sup>5</sup> 2011/2012 Legal Ombudsman customer satisfaction survey results published at [http://www.legalombudsman.org.uk/downloads/documents/publications/CSS\\_results\\_2011-12.pdf](http://www.legalombudsman.org.uk/downloads/documents/publications/CSS_results_2011-12.pdf)



## Out of jurisdiction data

A detailed qualitative analysis of consumers who sought assistance from the Ombudsman but were out of jurisdiction (as defined in the terms of this report) is included at Annex 2. We will consider the findings of this research first, and then go on to set out data from the Legal Ombudsman to inform the LSB request.

### Analysis of qualitative findings

There were some challenges to effective research in this area. As you will note, the Research by Design sample size is smaller than anticipated by the Legal Ombudsman. While we believe the chosen methodology is sound, we would echo the Research by Design warning that we cannot draw significant conclusions from its findings.

Since receiving the findings of the Research by Design survey, the Legal Ombudsman has spent some time analysing why the sample was lower than anticipated for this project. We have made some conclusions from our investigations; though none of these are certain, as without committing further resource, we cannot test our assumptions.

There are indications in the findings themselves as to why the sample may be low - section 3.2 of Annex 2 itself indicates to us that people lose impetus when they contact the wrong organisation and are told that no assistance is available. And as indicated in section 3.3 of Annex 2, many of the participants in the survey claimed LeO did not signpost them to other organisations despite this being part of how we selected people to invite them to participate.

It is likely we had a limited response due to the very phenomenon about which we were seeking further insight. Our view is that it is likely the personal frustration and lack of an easily identifiable source of help for some of these complaints may be a contributory factor in the low response rate, as many people may have declined to participate and spend more of their time and energy focused on an issue that they cannot seek assistance to resolve from the Legal Ombudsman or another independent body.

## Key findings

The survey indicates that there is an ongoing role for ombudsmen generally, with participants agreeing that they fulfil a vital role in the formal complaints structure. Where the study indicates potential for confusion, however, is in people's general understanding of an ombudsman's role, which lacks detail and appears to be based on the idea that there should be an independent, trusted and impartial body able to assist. The implication is that where there isn't a body to assist, consumer frustration and detriment will grow.

Importantly, the case studies included in Annex 2 provide compelling evidence, which echoes the concerns of the Ombudsman and other studies indicating a general level of consumer confusion. Given the low sample size for the survey, perhaps these case studies are a firmer indication of the issues than the results of the survey itself. There are three key areas that we would like to highlight from the report (Annex 2), illustrated by case studies included there:

- 1 Indications of confusion about what is a legal service - Section 3.1 of Annex 2 gives some indication of what the consumer understanding of a legal service might encompass – this includes what might be regarded as general legal advice, for instance, around issues such as employment and housing relating issues – and that people may be rightly confused about what falls within our jurisdiction (as it is based on reserved powers and not a general understanding of what consumers regard as legal services). From our perspective, this again raises issues of how the interaction of regulation and redress works. The Research by Design report indicates that consumers tend to think that activities will be regulated (and do not think about who is providing the service and whether that entity is regulated). This echoes other evidence, such as recently commissioned research by the Office of Fair Trading.<sup>6</sup>

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<sup>6</sup> Economic research into regulatory restrictions in the legal profession, European Economic (Office of Fair Trading), November 2012

- 2 Indications of confusion due to marketing of law firms – section 3.4 of Annex 2 highlights that there is some evidence to indicate that marketing is important in setting consumer expectations about the service they were using. Here, the survey indicated that most consumers simply assumed it was a legal service and would fall within our jurisdiction (i.e. there was nothing specific that led to the confusion). Further, where advertisements used the word lawyer or legal advice, this created an impression that the service used was a legal service. The study found that this indicates a firm's marketing/positioning can lead to consumer confusion, as illustrated by the case study of one consumer whose confusion was caused by the use of LLP after a name. This chimes with other evidence of the special status lawyers are held in generally, and a presumption by consumers that these transactions will be protected by regulation (which is also supported by the LSB's recent research in to risk and role of regulation).
- 3 Indications of confusion because of gaps in provision of redress – again in section 3.3 of Annex 2, the report includes detailed case studies of those who feel frustrated and confused after being passed from one organisation to another, as the specific issue raised by that person was not in jurisdiction for any particular organisation. The case study of Jim clearly shows his confusion at a lack of 'joined up thinking' across these different organisations and also the status of the other justice agencies in connection to LeO jurisdiction. The report also indicates that the nuances of different jurisdictions can be confusing, with a different case study illustrating confusion about whether a consumer can complain about a third party. Along with 'Sarah' in an earlier section, this consumer lost the momentum of the complaint and it faded in importance from their perspective as they were concentrating on their new home. That person also missed the chance to seek redress and the report indicates that because being passed from one organisation to another causes both frustration and confusion, this can lead to consumers

'giving up' on the case; often because they did not know who else to turn to.

We will now go on to consider LeO data, in the context of this survey and other evidence.

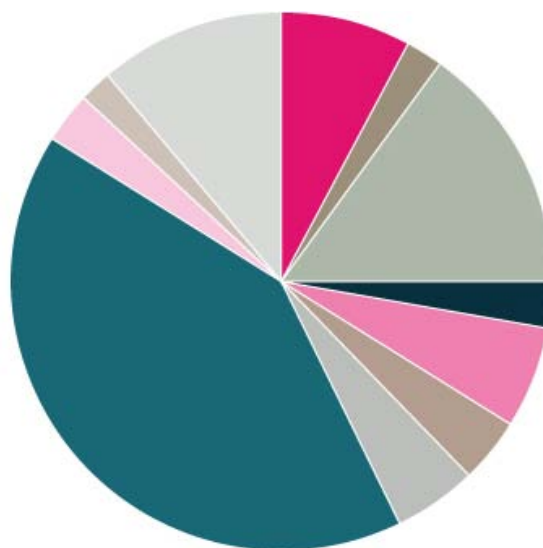
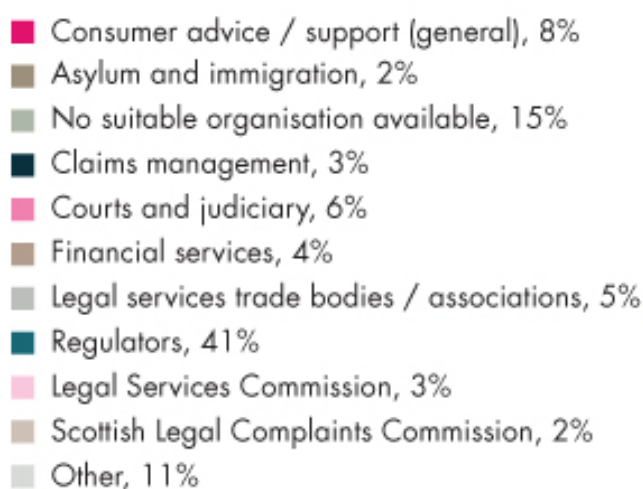
### **The scope of regulation: out of jurisdiction complaints signposted to other bodies**

One indicator of potential issues of consumer confusion is the extent to which the Legal Ombudsman signposts consumers to other organisations. The Legal Ombudsman collects limited information about this activity; the information is collected at the contact stage and in situations where the Ombudsman is not able to assist.

Since the Legal Ombudsman starting operating in October 2010 it has signposted 11,627 enquiries to other bodies. This represents, on average, 18% of the enquiries we receive per year. It gives some indication as to the extent of the level of contact to the Ombudsman about complaints that are outside its jurisdiction.

The following graph shows the most common out of jurisdiction enquiry types:

#### **Common out of jurisdiction types**



Around 40% of contacts are signposted to regulators. An additional 34% of contacts are signposted to other bodies that have some role in redress, consumer advice, regulation or another aspect of the justice system.

Again, while these statistics are indicative only, taken together, there are signs that in around 75% of contacts there may be consumer confusion that means the Legal Ombudsman becomes the place that directs consumers to the 'correct' home. Other research, most recently the OFT report<sup>7</sup> supports a similar reading of this information.

The Legal Ombudsman signposts these complaints to over 100 bodies and organisations.

This gives some indication of the complex nature of the regulatory landscape, and to which organisations the Ombudsman signposts.

The OFT report highlighted ongoing issues in relation to consumer confusion about the interaction between redress and regulation in the minds of consumers. Our signposting statistics present a consistent pattern with the OFT analysis. As the graph above indicates, a significant number of these referrals are to Approved Regulators, primarily due to the Legal Ombudsman acting as the single post box for all initial contacts and complaints about legal service providers, including conduct issues.

The case studies included in this report highlight some of the issues faced by individual consumers; in some cases there may be little a consumer can expect where service issues fall into a gap in coverage of redress. When respondents were asked whether there was anything specific about the business model or its marketing that led them to believe that it would fall under the Legal Ombudsman's remit, most consumers stated that they simply assumed that it was a legal service that they had purchased (i.e. there was nothing specific that led to their confusion). Twenty-three of the thirty-three consumers surveyed made an assumption that what they had purchased was a legal service – it seems that there is no specific definition

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<sup>7</sup> Economic research into regulatory restrictions in the legal profession, European Economic (Office of Fair Trading), November 2012

that this band of consumers applied to inform their judgement of what to do when something went wrong.

There were also some indications from the consumers surveyed which indicated the way in which a provider presents itself may confirm a consumer's assumptions. A third of the consumers surveyed indicated that using words such as 'lawyer' or 'legal advice' in advertisements or websites created a certain view in a prospective customer's mind<sup>8</sup>.

The research on first-tier complaint handling<sup>9</sup>, from the LSB, the Consumer Panel and the Legal Ombudsman and most recently the Office of Fair Trading complement these findings and together suggest that there continues to be considerable deficiencies in how legal service providers handle complaints. Against that background, and as indicated above, it would be helpful if there were a single set of complaint-handling rules that applied across the legal sector, as there is in other sectors, rather than separate rules from each front-line regulator.

### **Consumer confidence**

Research from the University of Leicester suggests the current redress and regulation system presented barriers to access for consumers which may impact on consumer confidence<sup>10</sup>. Case study 5 and other evidence, such as that included in the LSB investigation into will writing also demonstrate this.<sup>11</sup> The qualitative survey at Annex 2 also tell us that the majority of respondents surveyed were unhappy with the service they had received and/ or the legal and justice system.

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<sup>8</sup> Out of jurisdiction Report, November 2012, chapter 3.4

<sup>9</sup> First-tier complaints handling, YouGov plc (Legal Services Board), June 2011  
Consumer experiences of complaint handling in the legal services market, YouGov plc (Legal Ombudsman and Legal Services Consumer Panel) August 2012  
Economic research into regulatory restrictions in the legal profession, European Economic (Office of Fair Trading), November 2012

<sup>10</sup> Mapping Potential consumer confusion in a changing legal market, University of Leicester (Legal Ombudsman), October 2011

<sup>11</sup> Understanding the consumer experience of will-writing services, Legal Services Board, 2011.

Further to this, the Legal Ombudsman's recent research into the experiences of those consumers that have contacted the Legal Ombudsman without first making a formal complaint to their legal services provider or waiting for the eight week period for a legal services provider to respond to elapse - found that only 67% go back to their legal services provider following their initial contact with the Legal Ombudsman. This means that over one third of premature complainants end their journey during this time, even though they were unhappy about the legal service they had received. In situations where there is either no redress provision in place or they are signposted on to other organisations, particularly those other than Ombudsman, momentum to continue with their complaint appears to diminish.

# Case study 1



**Area of confusion:** Employment advice

**Complaint reason(s):** Failure to advise, failure to follow instructions

**Remedy:** N/A

**Outcome:** Out of jurisdiction

Mrs C runs a small business and wanted to reduce the hours of a full time employee. She didn't know how to go about this and so she contacted the firm that she retained to provide her human resources advice. They suggested at first that she offer new employment contracts to everyone. The employee wouldn't accept a new contract, however. Someone at the HR company who Mrs C believed to be a solicitor advised Mrs C to use the existing contract's lay off clause. They provided her with a draft letter.

The employee took Mrs C to an employment tribunal. The tribunal found that the lay off clause had been used incorrectly: Mrs C was ordered to pay the employee nearly £2,000. Immediately prior to the hearing, a new lawyer assigned to her case told her that she may not succeed at the hearing because she has used the clause. Mrs C complained because the firm had advised her to use the clause and, moreover, had ignored evidence that Mrs C had provided to them that may have meant that the employee's contract was invalid.

Our investigation revealed that the firm was not registered with the Solicitors Regulation Authority and that the individuals that Mrs C believed to be solicitors were not solicitors. For that reason, although they appeared to have provided her with legal advice, they did not fall within the Legal Ombudsman's jurisdiction. We suggested that Mrs C contact the Office of Fair Trading.



## Case study 2



**Area of confusion:** Will writing

**Complaint reason(s):** Failure to follow instructions, failure to keep informed, costs information deficient

**Remedy:** N/A

**Outcome:** Out of jurisdiction

Mr E is an elderly gentleman who wanted to set up a protective property trust will. Protective property trusts wills are typically used to ensure that in the event of one partner's death, the other is able to continue living in the house that they owned together. He approached a firm of will writers to draw up the trust will and paid them nearly £2,000 to do the work.

Much to Mr E's distress, the firm simply didn't do the work. It became clear that even though he complained to the firm they had no intention of doing the work or returning the money. The firm closed down and the Society of Will Writers suggested that Mr E complain to the Legal Ombudsman.

The investigator found that the firm fell outside our jurisdiction. Will writing is not a reserved activity and so is not covered by the Legal Services Act 2007. It appeared that a solicitor, who would be an authorised person under the Act, was a partner in the firm but because there was no evidence to show that he had been involved in Mr E's work (chiefly because no work had been done) we were unable to investigate the complaint. Had we felt that the partner had been directly involved, we would have been able to.

The Legal Ombudsman received a number of cases about the firm – some of which we had investigated because there was evidence of the solicitor's direct involvement. In Mr E's case, there was nothing we could do.

# Case study 3



**Area of confusion:** Family law mediation services

**Complaint reason(s):** Failure to advise

**Remedy:** N/A

**Outcome:** Out of jurisdiction

Mr X, a UK and Italian qualified lawyer, acted for a number of clients in their intended purchase of properties in Italy. Under Italian law, it is usual to pay half of the purchase price when the contract is exchanged. For that reason, many of Mr X's clients paid him a substantial deposit, with the intention that this money would only be transferred to the developers when they were ready to go ahead. However, Mr X transferred funds to the developers without ensuring the necessary safeguards were in place and, in some cases, without the clients' knowledge. The developers had financial problems and failed to finish the properties. In addition, although Mr X had transferred large sums to the developers it was not always clear how much money had been transferred and even whose money it was.

Our investigation into the complaints against Mr X were made more difficult because he took all his files and papers with him, including ledger cards, when he closed his UK office and moved to Italy. He was unwilling to release the files. Mr X also argued that he did not fall under our jurisdiction because he was an Italian lawyer; however, at the time he was instructed by the complainants it was clear that he was authorised and practising in the UK. Since Mr X was regulated in the UK as well as in Italy, we were able to consider complaints against him and we liaised with his indemnity insurers to arrange compensation for complainants who had lost out due to his actions.

We referred the lawyer to the Solicitors Regulation Authority for potential misconduct. The SRA investigated Mr X and is about to publish its decision about the actions of this firm. We understand from press coverage that that Mr X's name was ordered to be withdrawn from the SRA's register of European Lawyers and he was ordered to pay costs of £70,000. Mr X will continue to act as an Italian 'avvocato.'

## Case study 4



**Area of confusion:** Company law

**Complaint reason(s):** Potential misconduct

**Remedy:** N/A

**Outcome:** Out of jurisdiction

Miss G employed a lawyer to do work for her in Europe – Miss G was based in America and wanted to establish a company. She gave the lawyer nearly \$15,000 to establish the company on her behalf. Miss G explained that she had agreed with the lawyer that the lawyer wouldn't require payment unless the business took off.

It appears that the lawyer set up the company but then told Miss G that she would retain control of it because Miss G had not paid her for the work that she had done. When Miss G protested, the lawyer said she would pass the \$15,000 to the company, however the lawyer would retain control of the company. Miss G then learned that the lawyer was not qualified to practise in England and Wales.

We began to investigate the case, however the investigator spoke to the Chief Ombudsman to ask for advice. He advised our investigator that because the lawyer was not an authorised person under the Legal Services Act 2007, we would be unable to investigate Miss G's complaint. It was possible that the lawyer had committed an offence by holding herself as a lawyer and so we had referred the matter to the Solicitors Regulation Authority. However, that was all that we could do for Miss G.

## Case study 5



**Area of confusion:** Online employment law/ claims management

**Complaint reason(s):** Failure to follow instructions, failure to progress, failure to keep informed, costs information deficient

**Remedy:** N/A

**Outcome:** Out of jurisdiction

Mr D believed that he had been unfairly dismissed by his employer. He approached an online employment advice firm to represent him at the employment tribunal hearings. They agreed to represent him and he paid them over £700 in advance.

Mr D soon became concerned by the firm's work. He struggled to get through to his caseworker to ask for a progress update – when he eventually succeeded he was told that his case had been transferred to someone else. Then, three months after he had instructed and the day before a pre-hearing, he contacted the firm and was told that they were going to apply for an adjournment because they hadn't served the papers on time. The hearing was adjourned for four months but that hearing didn't proceed because on the day of the hearing his caseworker told him that she would be unable to attend. The hearing was adjourned for a second time. One or two days before the hearing, Mr D received an email from the firm telling him that they would not represent him because, in their view, his case was unlikely to succeed. When he complained, he was told that the firm had completed the paperwork for him and so he would not receive a refund.

Our investigation quickly revealed that the firm fell outside the Legal Ombudsman's jurisdiction. Despite providing Mr D with advice, the firm did not appear to employ any lawyers and was not regulated by any of the approved regulators. However, because the firm was a claims management company, it was regulated by the Ministry of Justice. We passed Mr D's complaint over to them.

# Case study 6



**Area of confusion:** Employment advice

**Complaint reason(s):** Delay, failure to advise, potential misconduct

**Remedy:** N/A

**Outcome:** Out of jurisdiction

Miss F wanted to take her previous employer to an employment tribunal for constructive dismissal, discrimination, harassment and breach of contract. Miss F had legal expenses insurance and so she approached them for help with her claim. In turn, the insurers instructed a firm to consider the claim.

She soon became dissatisfied with the work the firm was doing on her behalf. She complained that they had failed to keep her updated on about progress on the case, left her to do all the work on it and then, when they became aware that she was dissatisfied with the service, vindictively told her that her case had no merit and closed it. This left Miss F without representation at the employment tribunal.

Miss F complained to her insurers and then, when she didn't receive a satisfactory response, to the Legal Ombudsman. It became clear that Miss had not raised her complaint with the firm. Lawyers must be given an opportunity to respond to a complaint before the Legal Ombudsman can investigate: they are entitled to eight weeks in which to respond. The effect of this was that Miss F's complaint was delayed while she complained to the firm, gave them time to respond and then returned to us.

Miss F did then complain to the firm, and, recorded as a separate case, then brought this complaint to the Legal Ombudsman.

# Learning for the Ombudsman

Part of the LSB's section 120 request included seeking from the OLC a view on what learning it would take from this report. There are two key areas of learning for the Legal Ombudsman. Both aspects are captured in its future plans as set out in the 2013/14 Strategy and Business Plan.

## **Awareness raising**

We have plans to continue raising awareness amongst consumers and to target our communications so the right people hear about the Ombudsman at the right time. Signposting requirements on the legal profession are a key aspect of this and we are keen to continue working with the LSB in particular to ensure these arrangements evolve with the changing landscape.

This report has also confirmed to us that we need to become smarter in terms of how we describe the role of the Ombudsman to consumers – and other key gateway bodies.

## **Data collection**

Improving how we collect data to inform wider policy debates with evidence drawn from complaints remains a priority for the Legal Ombudsman. This report is a useful reminder to remain focused on this. And more is to be done. However we have included here an overview of the actions taken since 2011 to assist the LSB and others in understanding our efforts to improve in this area.

The Legal Ombudsman has:

- Reviewed and updated the signposting arrangements in the Assessment Centre and accompanying guidance
- Continuously reviewed our approach to data capture and validation within the case handling system, accompanied by staff training and knowledge sharing
- Introduced new investigator 'dashboards' to highlight data exceptions and discrepancies to improve data quality
- Developed and implemented new processes and guidance to improve consistency of E&D data capture to identify trends in accessing services.
- Introduced a new scheme in relation to 'premature complainants'. This new approach follows up contact with complainants who have been advised that they need to complain to their lawyer first. This was introduced in response to the findings of research, which highlighted the high rate of consumer drop out during the early stages of the complaints process.
- Implemented a new approach to quality checking to include completeness of case information.

We will continue to work to develop our ability to mine complaints data to bolster our ability to work with the regulators, professional bodies and the profession itself to prevent complaints occurring in the first instance. Our series of thematic reports and our new CPD course are early initiatives to feedback learning, and, as indicated in our business plan for 2013/2014, we are committed to using our data to undertake more of these sorts of activities.

# Annex 1

In their request, the LSB identified a number of reporting requirements for the Section 120 report. As the request specifically relates to information on complaints that fall outside of the Ombudsman’s jurisdiction, (and as such relates to data which isn’t routinely captured by LeO) it was necessary for LeO and the LSB to further clarify the scope and agree reporting methods which may be used in responding to the request.

## **Reporting Requirement: Section 120 Legal Services Act 2007**

- 1 This Notice is served on the Office for Legal Complaints (“the OLC”) by the Legal Service Board (“LSB”) under Section 120 of the Legal Service 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 (confirmed in scope on 26 March 2012);
  - A breakdown of the types of consumers<sup>12</sup> making complaints within this description (gathered via externally

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<sup>12</sup> 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



commissioned research in light of agreed scope in March 2012);

- A breakdown of the areas of law and legal activities involved in complaints within this description (not collected by the Legal Ombudsman; some evidence gathered via externally commissioned research and supplemented by out of jurisdiction signposting data in light of agreed scope in March 2012);
- A breakdown of the types of provider<sup>13</sup> that are being complained about in complaints within this description and supplemented by out of jurisdiction signposting data (gathered via externally commissioned research and supplemented by out of jurisdiction signposting data in light of agreed scope in March 2012);
- A breakdown of the reasons why complaints within this description fall outside of jurisdiction (gathered via externally commissioned research and supplemented by case studies in light of agreed scope in March 2012);
- 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 (gathered via externally commissioned research and supplemented case studies in light of agreed scope in March 2012);
- An assessment of the number and types of complaints within this description where the Ombudsman believes that

---

way that is practicable and it believes is most likely to meet the aims of this request.

<sup>13</sup> See footnote 1 above

the consumer has experienced confusion over their right to redress caused by the overlap between unregulated and regulated services (gathered via externally commissioned research and supplemented by out of jurisdiction signposting data and case studies in light of agreed scope in March 2012);

- 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;
  - The action taken by the Ombudsman where complaints fall outside of his jurisdiction including signposting or referral to other specified bodies (signposting data and case studies included in light of agreed scope in March 2012).
  - 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 (re-negotiated time period in light of agreed scope in March 2012).
- 3 You are required to provide your report to the LSB by 1 August 2012 (new date agreed with LSB).
  - 4 The LSB reserves the right to amend or revoke this notice, by giving further notice to the OLC (see clarification of request in March 2012).

## Clarification of scope of section 120 request

### Agreed by Legal Ombudsman and Legal Services Board - 26 March 2012

#### Overview:

1. The focus is for the LSB request is occurrences where the complainant has thought that they are purchasing a legal service from a "lawyer" covered by the Ombudsman scheme but are actually buying from an unregulated provider so no such redress is available.
2. Where robust data is not available, informed anecdotal evidence can be included to assist build a broader picture. The LSB confirm that the notice was drafted in a way that provides flexibility for how this report can be delivered. The LSB appreciates that the Ombudsman does not currently record data that we are requesting and stresses the need for proportionality in building data. In the cover letter the LSB suggests that the basis could be one or a combination of a) relevant info that you do hold routinely b) collecting data in some way for a set period c) a report based on a staff survey d) other routes suggested by you. This leaves wide scope for the OLC/ Ombudsman to suggest a proportionate response. Informed anecdote may well play a part in the solution. The last three bullets of the notice particularly lend themselves to more subjective information.
3. We ask separately in the cover letter for you explain how data was collected and views on how you may respond to Leicester Uni's recommendation that relevant info is systematically recorded going forward.

#### Specific points of clarification:

- The scope of the report will be an assessment of complaints that fall outside of the Legal Ombudsman's jurisdiction because of consumer confusion arising from regulatory boundaries, such as where the complainant has thought that they are purchasing a legal service

from a “lawyer” covered by the Ombudsman but are actually buying from an unregulated provider so no such redress is available.

- Jurisdictional issues that relate to the Ombudsman’s scheme rules are not the primary focus of this report as they will be addressed through the OLC’s forthcoming consultation. Therefore, the focus of the research will be on jurisdictional issues in relation to the provider rather than the complainant.
- The LSB are satisfied that the OLC/ LeO will not be able to provide comprehensive data on the areas of law and legal activities that these complaints relate to, but wish to see this presented in the context of wider consideration of the proportionality of different routes to collecting information such as those set out in the original covering letter.
- The LSB seeks the breakdown of the types of provider being complained about to include some commentary on the business models and structures that are causing confusion, based on where Ombudsman thinks that business models are causing confusion. This may also provide an insight into areas of law and activities.
- The LSB would welcome any other evidence that should be considered in reviewing regulatory boundaries and addressing consumer confusion / gaps in redress.

RECEIVED

30 JAN 2012

Elizabeth France CBE  
 Chair  
 Office for Legal Complaints  
 Baskerville House  
 Centenary Square  
 Broad Street  
 Birmingham  
 B1 2ND



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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.

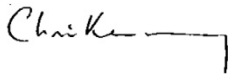
We therefore believe that the time is now right to require a formal report to assist our understanding of the issues. The information we are specifying for inclusion in the report includes both qualitative assessment and data about the frequency of the issues broken down by key features such as provider 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



**Chris Kenny**  
Chief Executive

E [chris.kenny@legalservicesboard.org.uk](mailto:chris.kenny@legalservicesboard.org.uk)

# Annex 2

# Legal Ombudsman Out of Jurisdiction Study



## Findings

## November 2012



**Research by Design Ltd**

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## Section 1: Introduction

### 1.1. Background

The Legal Ombudsman's jurisdiction extends only to complaints about 'Authorised Persons' that carry out a reserved legal activity (i.e. 'Lawyers'). Significant changes to the marketplace now mean that several legal services are now provided by non-lawyers.

The overarching business objective relating to this piece of research is to better understand consumer confusion around the Legal Ombudsman's jurisdiction boundaries. This is a direct request from the Legal Services Board (LSB). This work is intended to help inform future decisions about how these types of complaints are handled.

The specific research objectives were to provide:

- An assessment of the **number of complaints** received by the Legal Ombudsman that fall outside of their jurisdiction due to consumer confusion around regulatory boundaries, i.e. where the complainant has thought that they are purchasing a legal service from a "lawyer" covered by the Ombudsman scheme but are actually buying from an unregulated provider so no such redress is available;
- An overview of the **types of complainants** who are making these complaints;
- An assessment of the **types of providers, areas of law and activities** being complained about and the **business models and structures** that are causing confusion;
- A commentary on the **action taken** by the Ombudsman where complaints fall outside of his jurisdiction, including signposting or referral to other specified bodies.

In addition, we were also asked to provide a commentary on any other information that could be given to the Ombudsman to help assist the LSB's understanding of the problems, their frequency, the causes and the impacts regarding out of jurisdiction complaints.

Due to the relatively small number of such cases, a robust yet pragmatic research programme was designed in close consultation with the Legal Ombudsman. This report is therefore designed to inform a broader report that the Legal Ombudsman will present to the LSB which will contain contextual statistics/case loads which Research by Design were not supplied.

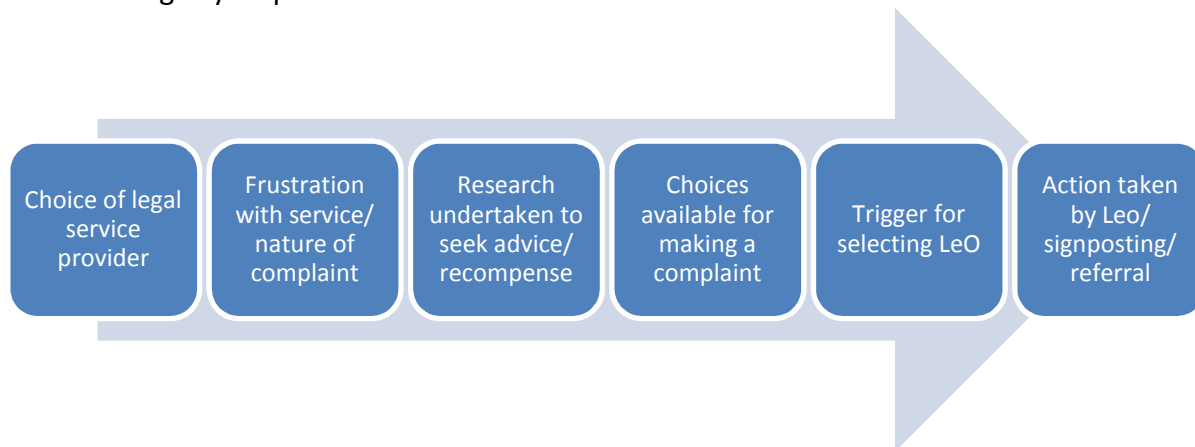
### 1.2. Research methodology

Research by Design was commissioned to undertake a quantitative online survey and qualitative 'customer journey' interviews amongst those who had contacted the Legal Ombudsman but were told that the nature of their case fell outside its jurisdiction. Both quantitative and qualitative tools were used to gather a further understanding of the complaint and the pathway the complainant took.

An online survey was the key vehicle used to attempt to ‘profile’ the nature of complaints that are deemed out of jurisdiction, understand more about complainants, the type of service provision they received. We specifically wanted to learn what the possible sources of confusion about why they thought the Legal Ombudsman could deal with their case (e.g. something about the legal provider’s business model which indicated that they may be using a reserved activity). Profiling data was also collected to understand the demographics of these complainants (tabulated in appendix).

After this first phase of fieldwork, a series of in-depth ‘customer journey’ interviews took place with those who have made a complaint about an unregulated legal service. These interviews enabled us to investigate consumers’ legal services experiences in more depth, exploring some of the more technical as well as sensitive nuances of the case that would not be captured in a quantitative survey.

The ‘customer journey’ interview helped us unpick people’s reasoning at each key stage of a purchase or service use. In the context of this study, we looked to examine consumer choices at the following key steps:



Participants were selected from participants in the quantitative ‘online’ survey. These cases were chosen tactically - in close consultation with the Legal Ombudsman - with a view to them providing a useful illustration of consumer issues.

### **1.3. Sample size and reporting considerations**

A ‘total of 33 consumers participated in the survey, and six of these respondents were chosen and took part in the qualitative ‘customer journey’ interviews. The reader should be extremely cautious at making any large conclusions based on such a small sample size.

In the interests of transparency in this report, figures are shown as raw numbers rather than percentages. We need to be cautious about the representativeness of the achieved sample and therefore any observations should be treated as indicative only. In some charts, the raw numbers may sum to more than the total base – this is because the question was designed in a ‘multiple choice’ format.

Within the findings section, the term ‘Legal Ombudsman’ appears within this report in its foreshortened form of ‘LeO’.

## Section 2: Consumer attitudes towards complaint making

### 2.1 Objective

By way of context, at the beginning of each interview, we discussed consumers' attitudes towards complaint making in general. We asked a series of questions on consumer rights and about Ombudsman services. The below are the clients responses to each of these key questions. It should of course, be pointed out, that the sample for this survey consisted of consumers who had attempted to access the Legal Ombudsman and, in many cases, also contacted other Ombudsman too. The findings therefore are only indicative of the general population.

### 2.2 General rights to complain

Consumers expect robust processes to be in place to protect them from goods and services that do not meet their needs. The people we interviewed qualitatively were all adamant that an Ombudsman service fulfils a vital role in this formal complaints structure.

**As a consumer, what are your rights as a consumer to complain about a service?**



### 2.3 Awareness of Ombudsman schemes

Consumers believe that the average 'man on the street' does not have a detailed appreciation of the Ombudsman role. We did not detect a detailed technical understanding of complaint processes nor the legal parameters that determine which cases an Ombudsman can look into. We found some evidence that this can lead to consumer confusion and occasionally frustration.

An Ombudsman should be impartial and unbiased. These are the values that consumers expect most of all from an Ombudsman service. Trust in the Ombudsman erodes when the consumer feels that they are 'not on their side'. Some consumers who took part in the survey were clearly hoping that the LeO would somehow act as a 'champion' for their cause. The in-depth interviewees did not necessarily expect an Ombudsman to be giving them legal advice though.

## What would you say an Ombudsman is?



## And what does an Ombudsman do/provide?



## 2.4 Legal Ombudsman perception

It was generally felt that the Legal Ombudsman was one of the lesser known Ombudsman services – but of course this awareness may change as the scheme becomes more established. There were very mixed views about how the terms ‘Legal’ and ‘Ombudsman’ work together; respondents thought that it sounded as if it had gravitas. One respondent felt disappointed by an apparent lack of deep legal expertise that the names perhaps conjure up when positioned together.

And finally if you put the word 'Legal' in front of the word Ombudsman, does it change the meaning?

*"I don't think it makes a difference, no real change in the meaning".*

*"The ombudsman has to see the legality of what is written in the legal system pertaining to that decision"*

*"In some aspects people might view it differently, but in his case it was totally justified and relevant"*

*"To me I think the Legal Ombudsman, the people who are appointed to investigate the complaints, I don't think they have a deep insight into law"*

*"Not really, it's a higher body to enforce good practices in the legal field"*

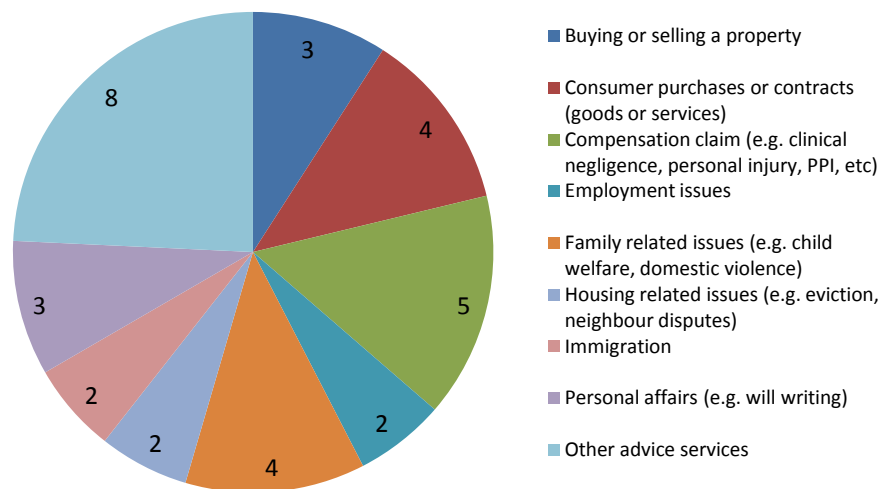
*"They can point you in the direction to get recompense for the complaint"*

## Section 3: Out of jurisdiction cases

### 3.1. Reasons for getting in touch

The survey illustrates an extremely wide variety of reasons why a consumer might contact LeO. Five of the thirty three consumers who took part in the survey contacted LeO about compensation claims, whilst three complainants contacted about property they had bought or sold, three contacted about family related issues, whilst a further three contacted regarding personal affairs.

Which one of the following services did you contact the Legal Ombudsman about?



Base: 33

There were no responses captured in the survey for 'debt management' or 'mediation services'.

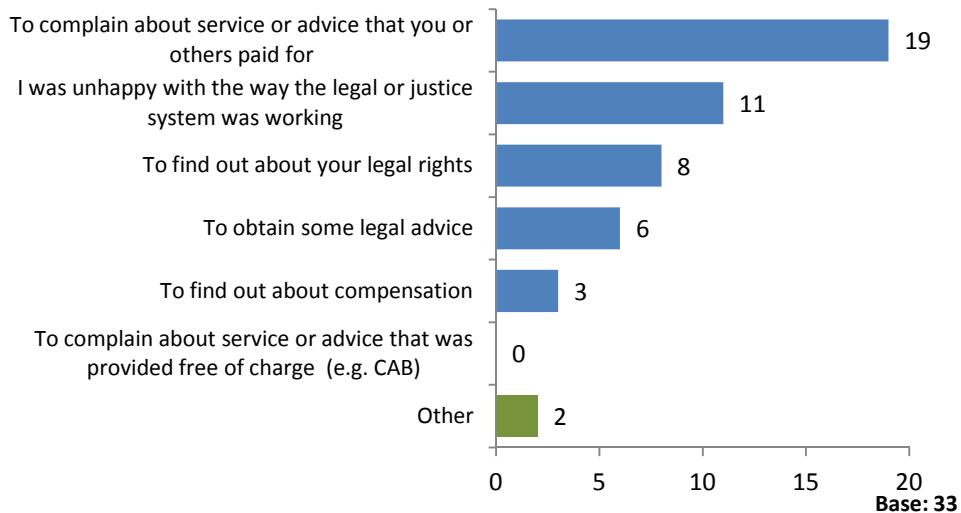
Nine consumers contacted the Ombudsman for other reasons ranging from matters that arose in court through to text messages about an accident.

- QC acting dishonestly/incompetently whilst operating in a quasi-judicial role
- Comments from a Judge
- Poor service from a solicitor
- Texts suggesting I had had an accident when I had not
- Defendant's solicitor behaviour
- Excessive fees and failure to protect clients best interests
- Solicitors complaint concerning poor service
- A number of lawyers and, in my opinion, a judge were all prepared to cover up for the Chief Executive even though they admitted that they had "made a mistake"
- Illogical receivership

Nineteen consumers stated that they had contacted LeO to complain about a service or advice that they paid for. Some consumers however had much broader concerns they wished to raise - eleven contacted LeO because they were unhappy with the legal/justice system in general or some aspect of it.

Several consumers also conceded that they were not making a direct complaint at all. Eight complainants wanted to use the LeO to find out what their legal rights were, whilst a further six were looking to obtain legal advice.

**Which of the following summarise your reasons for contacting the Legal Ombudsman?**



A selection of the verbatim quotations are presented below:

The substandard service, the extent of my frustration after months of not getting anywhere with regards to my case, and the loss of my documents by the firm.

I was advised by the citizens advice that the Legal Ombudsman would be able to assist me with resolving my complaint concerning the failure of my Barrister and legal representative to protect my best interests which cost me my business and 12 employees their jobs.

I thought the person I was dealing with was a solicitor. He was in fact an accountant

The solicitor quoted us an amount and did not keep us informed as to the escalating costs. Then they sent us about 4 invoices at once, 3 of them backdated to months before, for thousands more than their original quote. They made errors and charged us for advice they had copied off the internet.

Company not taking my complaining seriously

I was not getting straight answers to my questions and was being charged for services I did not want

I contacted the Legal Ombudsman having exhausted the complaints procedure of HMCTS in order to obtain a solution to a long term matter they were totally failing to deal with in a satisfactory manner.

Circumstances are that I was made homeless based on perjurious claim made against me by someone who had been unwell for five years and received prolonged and sustained support in every way, resulting in me being caused personal injury, extreme monetary loss, and devastation to the life of my five year old daughter who has now not seen any of her relatives in the UK for over a year.

As not getting a response from solicitors at the time and they were running rings around me and seemed to be inventing excuses and was all we felt due to mistakes the solicitor had created. Felt solicitor had power as to the intimidating way I was being treated by them. And was completely lost

I wanted my money back as the course was null and void. The bank refused my request and that was why I turned to you.

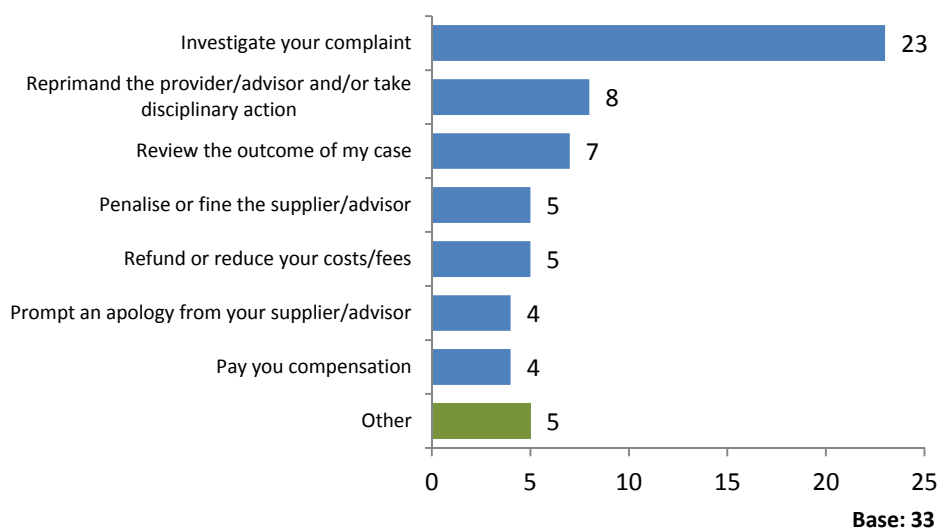


### 3.2. Expectations of the Ombudsman service

It is fairly clear from the results that most consumers contact LeO because they want an organisation to investigate a grievance that they have. Twenty three respondents were hoping that LeO would investigate their complaint, whilst eight went further and stated that they were hoping that the Ombudsman would reprimand or take disciplinary action against a service provider. Seven consumers wanted the LeO to review the outcome of their case. Seven consumers wanted the LeO to review the outcome of their case. Seven consumers wanted the LeO to review the outcome of their case.

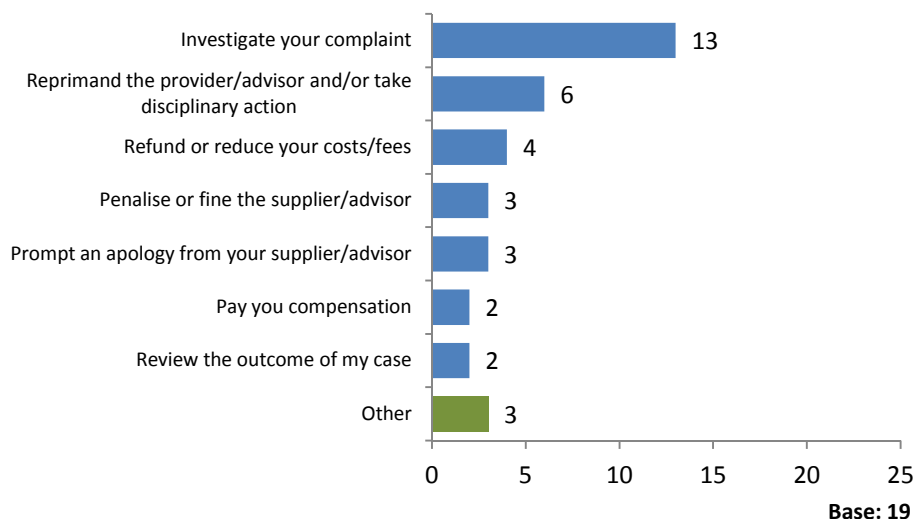
Direct monetary gain/compensation appears to be less of a primary driver for getting in touch with LeO. Just five consumers indicated that they were looking for some sort of refund/reduced fees, whilst four complainants were looking for compensation.

**What were you hoping the Legal Ombudsman could do for you?**

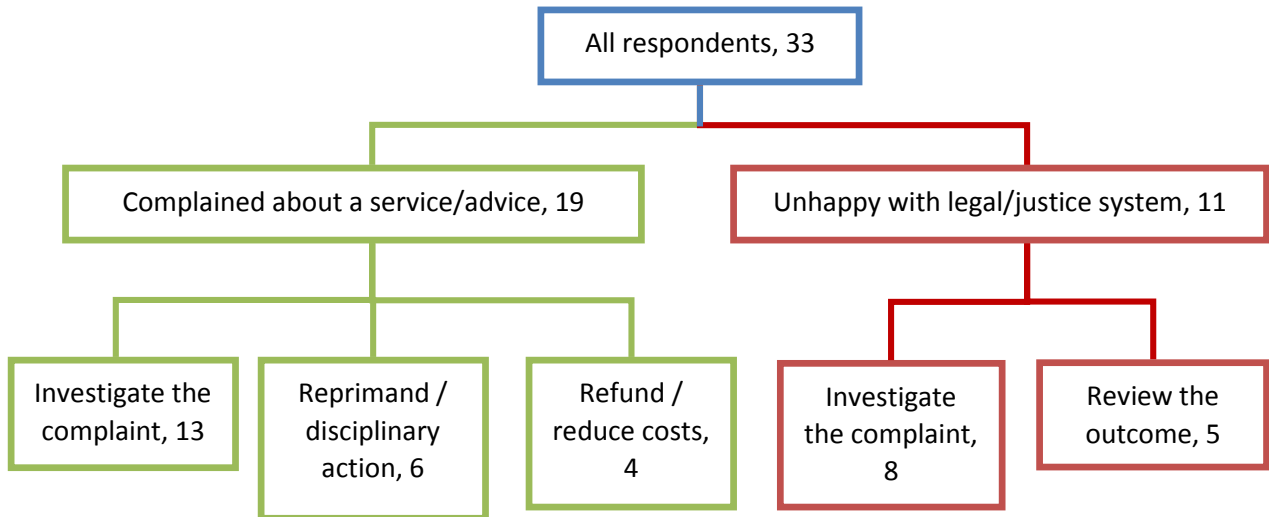


Looking specifically at consumers who had earlier indicated that they were making a direct complaint against a provider, we see a similar pattern of motivation. Of the nineteen respondents who were complaining about a service or advice, 13 wanted the LeO to investigate their complaint, whilst 6 complainants were hoping they would reprimand or take disciplinary action against the provider.

**THOSE WHO WERE COMPLAINING: What were you hoping the LeO could do for you?**



The following chart summarises the main reasons and expectations that consumers in our sample had. The most common 'path' described to us is someone who is making a complaint about a service or advice they had received and they wanted the LeO to investigate their case.



The following case is illustrative of a consumer who had a complaint against a provider and wanted a reprimand. She mistakenly contacted the wrong organisation to complain and the impact of this meant that they lost the energy/impetus that they originally felt.

**Case study : 'Ms S'**  
**Contacted the LeO about an immigration issue, looking for the LeO to reprimand the advisor**

Ms S, a non-UK resident, made a complaint about an immigration issue, and specifically the company who she was using to help with obtaining a Visa extension to stay in the UK. Ms S was initially told to go to a selection of companies by the Citizens Advice Bureaux, but decided to go with this particular company due to the proximity of where it was when Ms S was in the UK. The problem Ms S had with the company was that they did not act professionally, they took her payment and stopped communication, the application incurred significant delays and the company kept losing Ms S's documents. Ms S complained to the manager who apologised and said that they would rectify the situation. However they did not. So Ms S contacted two or three organisations about her case, one being the LeO. The LeO advised Ms S that she should go to the Office of the Immigration Services Commissioner (OISC). However Ms S didn't go because she had started to lose confidence and interest in her complaint. Ms S thought that the LeO was very clear in their response, and she was satisfied with the way they handled her case. Ms S informed the company, who were dealing her application, that she had contacted the LeO and they fully refunded Ms S's costs.

*"I selected the LeO because they responded"*

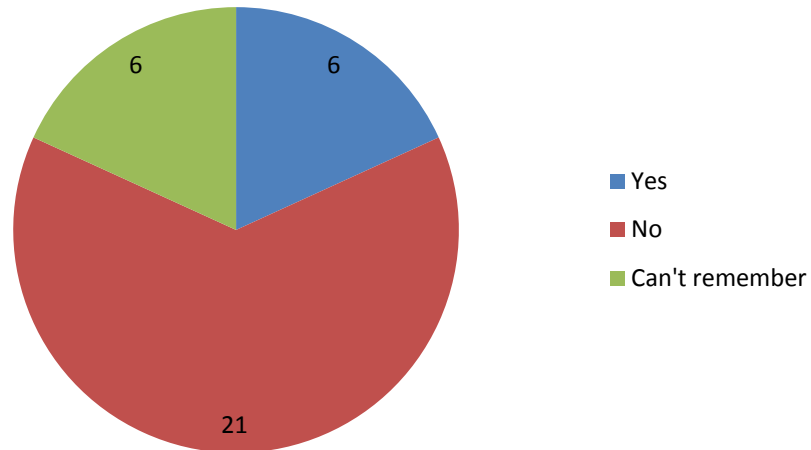
*"They give you very clear instructions on how it's going to be, until you make the payment. Once you've made the payment they didn't keep any of their word"*

*"They refunded my costs completely after I told them that I contacted the Legal Ombudsman"*

### 3.3. Sign posting to other organisations

The majority of consumers claimed that the Legal Ombudsman did not signpost them to another organisation. This is slightly surprising as the sample defined by LeO was based on calls where records indicate that signposting did occur. This could potentially highlight a serious issue about how clearly this information is being conveyed to consumers – as only six of the thirty three respondent recalled that they were signposted. Six said that they couldn't remember.

Did the Legal Ombudsman suggest seeking advice and guidance from another organisation?



Base: 33

Of the six consumers who could clearly recall being given a recommendation the following bodies were mentioned:

- Citizens Advice Bureau (CAB)
- Financial Ombudsman Service
- The Office of the Immigration Services Commissioner
- Contacting another solicitor/lawyer

The detailed case below describes a consumer who had been signposted to multiple organisations during the course of several years. 'Jim' has therefore built up a good understanding of the different Ombudsman services and other intermediaries. This consumer has been left confused by a lack of 'joined up thinking' across these organisations and also the status of the Official Solicitor in connection to LeO jurisdiction.

**Case study : 'Mr J'**  
**Contacted the LeO about a Compensation claim, looking for the LeO to review, penalise and obtain compensation from the provider**

Mr J strongly believes that his family have been the victim of bad practice with regard to the care arrangements of his adult son who has learning difficulties and significant support needs. His son is currently in a Local Authority care home. Mr J has had long standing disagreements but in summary some of the complaints he has raised relate to:

- Being unhappy that a solicitor did not pick up on a possible Human Rights Act infringement against his son (the time constraint of 1 year subsequently passed)
- The conduct of the solicitor firm working on behalf of the Official Solicitor appointed to his son
- A negligence claim against care home because they are not taking proper care of son.

With regards to the earlier Human Rights Act that was not picked up, the LeO investigator said that firm should apologise and make compensation of £100 – which Mr J felt was too little for the severity of the situation.

During the course of Mr J's endeavours, he has contacted the Solicitors Regulation Authority, The Local Government Ombudsman, the Housing Ombudsman, Police, and the Official Solicitor and Public Trustee (OSPT) themselves. The SRA referred Mr J to LeO. LeO said that as the father is not the client of the law firm/official solicitor, so he cannot make the complaint. His son does not have the capacity to make a complaint. Mr J was confused by this decision as the only other body he could complain to were the OSPT; Mr J was finding it very difficult to separate out the official solicitor and the appointed law firm.

The Citizens Advice Bureau were recommended by LeO at end of their letter. Mr J visited them and have since referred him to a new solicitor who advised him to file a negligence claim against the care home. Overall, Mr J has been left very disappointed by the apparent willingness of the Ombudsman schemes to take up his case. He has consulted with several Ombudsman schemes and feels that they are not joined up and do not put the interests of consumers first.

*"How can she make a complaint against herself – so who is supposed to complain on his behalf if I cannot do it?"*

**Case study : 'Mr J'**  
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*"She decides to collude with the local authority and remove him again (from parental home) so I complain to the Official Solicitor and Public Trustee (OSPT)...all they do is run around in circles and refuse to investigate".*

*"(it's all) misleading, makes me feel like there's no justice"*

**Case study : 'Mr J'**  
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With regards to the earlier Human Rights Act that was not picked up, the LeO investigator said that firm should apologise and make compensation of £100 – which Mr J felt was too little for the severity of the situation.

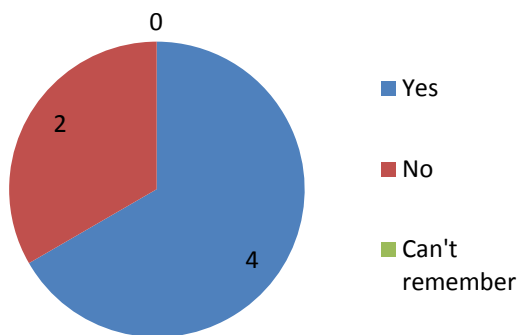
During the course of Mr J's endeavours, he has contacted the Solicitors Regulation Authority, The Local Government Ombudsman, the Housing Ombudsman, Police, and the Official Solicitor and Public Trustee (OSPT) themselves. The SRA referred Mr J to LeO. LeO said that as the father is not the client of the law firm/official solicitor, so he cannot make the complaint. His son does not have the capacity to make a complaint. Mr J was confused by this decision as the only other body he could complain to were the OSPT; Mr J was finding it very difficult to separate out the official solicitor and the appointed law firm.

The Citizens Advice Bureau were recommended by LeO at end of their letter. Mr J visited them and have since referred him to a new solicitor who advised him to file a negligence claim against the care home. Overall, Mr J has been left very disappointed by the apparent willingness of the Ombudsman schemes to take up his case. He has consulted with several Ombudsman schemes and feels that they are not joined up and do not put the interests of consumers first.

*"To me I think the Legal Ombudsman, the people who are appointed to investigate the complaints, I don't think they have a deep insight into law"*

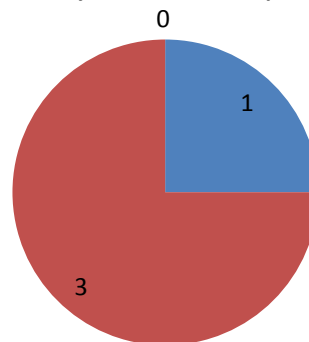
Of the six consumers who were told to go to another organisation, four said they actually acted on the advice and contacted the organisation. However, one of these consumers felt they received the help and advice they needed from the new organisation – indicating that the signposting was perhaps not particularly effective.

Did you contact this organisation?



Base: 6

And did you receive the help and advice you needed?

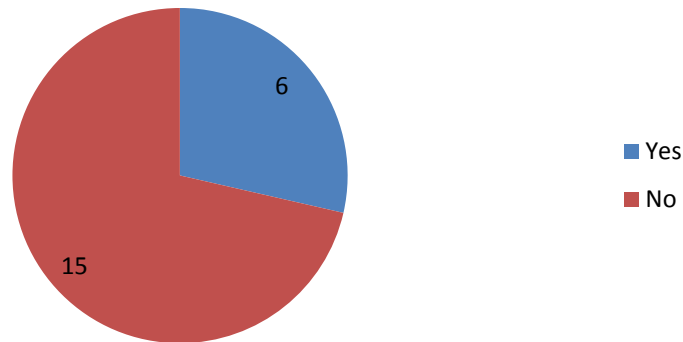


Base: 4

The one consumer who did receive effective help said that the enquiry was pursued further and they gained the results they were after. Of the three complainants who did not receive help, two said they decided not to pursue the enquiry, whilst one looked for further help.

Of the twenty one consumers who claimed that they were not referred on to another organisation by the LeO, only six went to another organisation under their own steam.

After contacting the Legal Ombudsman, did you seek advice and guidance from anywhere else?



Base: 21

The following case highlights a consumer who claims he was not referred onto another organisation. The case also highlights consumer confusion about whether a consumer can complain about a third party. As with 'Sarah' in an earlier section, this consumer lost the momentum of the complaint and it faded in importance from their perspective as they were concentrating on their new home.

**Case study : 'Mr G'**  
**Contacted the LeO about buying a property, looking for the LeO to reprimand the provider**

The case involved Mr G buying a property, and it was the service provided by the vendor's solicitor that the complaint was made. Mr G thought that the vendors solicitor was doing the minimalist job they could possibly do to sell the property, by refusing to pass on core legal documents, claiming the vendor had agreed to questions (when they hadn't), they caused unnecessary delays and bullied Mr G in to exchanging contracts or if not the property being put back on the market. Mr G took out an indemnity policy to cover the lack of legal documents provided by the vendor's solicitor for the house sale. After the sale of the property had been completed, Mr G complained to all the parties involved in the chain except for the vendor's solicitor. Mr G's solicitor advised Mr G to contact the LeO about his complaint, which they did via email. Mr G's complaint didn't go any further as Mr G did not pursue it.

*"My solicitor pointed him the direction of the LeO after he asked if there was somebody he could complain to"*

*"The vendors solicitor did the minimalist job. They refused to pass on core documents and became very intimidating"*

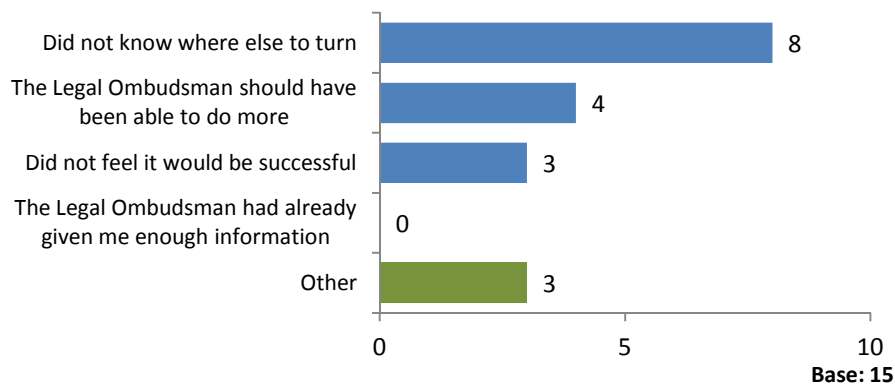
Of the 6 consumers who contacted other organisations themselves, a range of parties were mentioned – and in particular the Citizens Advice Bureau, Financial Ombudsman Service and HMCS HQ emerged strongly.

- Citizens Advice Bureau (CAB)
- Financial Ombudsman Service
- Her Majesty's Courts Service HQ

- ACAS (Advisory, Conciliation and Arbitration Service)
- Community Legal Advice
- CPS (Crown Prosecution Service)
- Judicial complaints
- Legal Services Commission
- Office of the Public Guardian

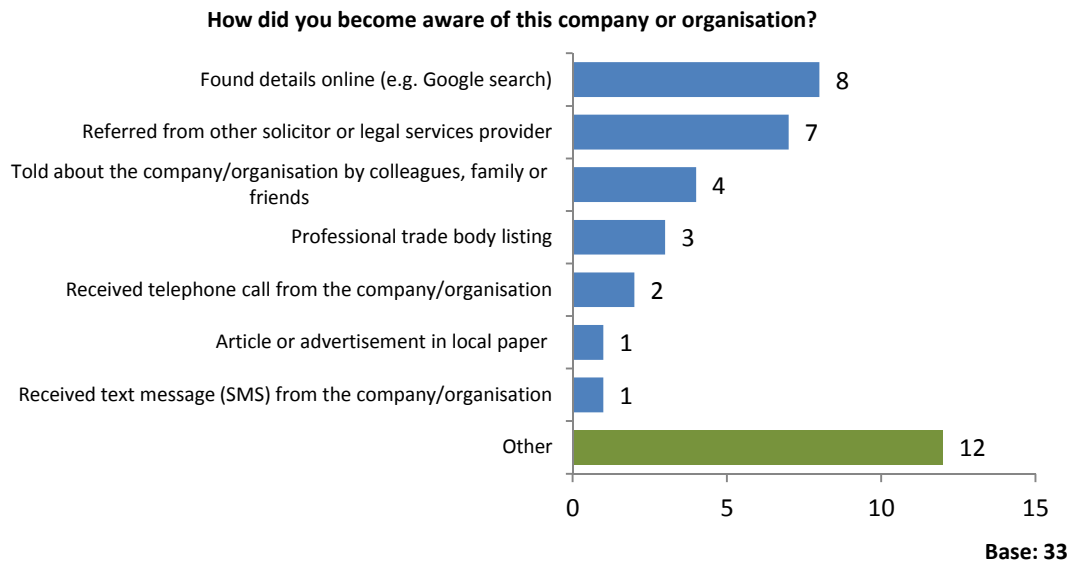
There were fifteen consumers who did not seek further advice, and around one half of these said it was because they did not know where to go to. This again points to a lack of clear guidance and advice to consumers. Four expressed disappointment that the Ombudsman did not do more. Three consumers did not feel it would no longer be successful to pursue their enquiry.

**What were your reasons for not pursuing your enquiry?**

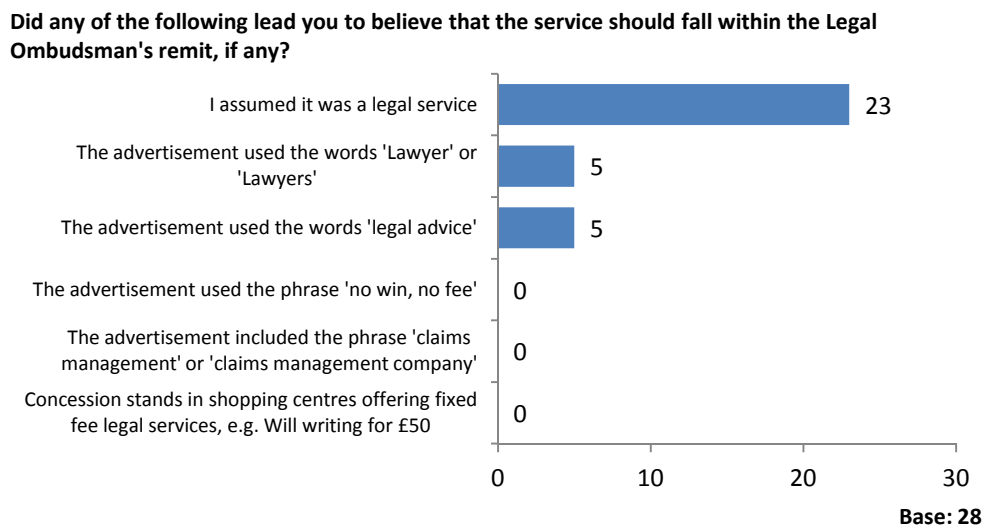


### 3.4. Possible confusion about the legal service provider

Consumers make contact with a legal services provider through a variety of channels. Eight out of the thirty three consumers who took part in the survey found out about the organisation that provided them with the service/advice, through the internet. Seven consumers were referred to the organisation from another solicitor or legal services provider. Four of the consumers heard about the organisation through word of mouth.



We then asked whether there was anything specific about the business model or its marketing that led them to believe that it would fall under the LeO's remit. Most consumers simply assumed that it was a legal service (i.e. there was nothing specific that led to the confusion). Five consumers indicated that the advertisement used the word lawyer, with a further five claiming an advert used the words 'legal advice'. This indicates that a firm's marketing/positioning can lead to consumer confusion in roughly one-third of cases we interviewed.



The case study below highlights some consumer confusion in relation to the use of letters LLP after a company name. The consumer had assumed that they were a solicitor (they were actually an accountancy firm) and therefore contacted LeO about their complaint.

**Case study : 'Mr C'**

**Contacted the LeO about a compensation claim, looking for the LeO to investigate his complaint**

Mr C held shares in an organisation that went in to liquidisation. Mr C received a letter from a 'Company' to inform Mr C that they had been appointed to wind up the business. During the process of winding up the business, the 'Company' had sold some of Mr C's shares without his knowledge and authority. The 'Company' informed Mr C, that as the shares were being held by another business, and that the 'Company' had no involvement in the shares, that the company holding the shares were entitled to sell them if the account was in debit (which it was showing it was, but it was incorrect).

Furthermore, Mr C was also aggrieved with the person at the 'Company' dealing with the case with his lack of attention, failure to respond quickly and general attitude throughout. It got to a point that as the service became increasing unacceptable, and Mr C feeling like he was being brushed aside, making them complain to the owner of the 'Company'.

Mr C wrote directly to the owner of the 'Company' who responded quickly saying that they had looked in to the complaint and said that the member of staff had acted perfectly sensibly and right as far as the owner was concerned.

After twelve months of dealings with the 'Company', Mr C contacted the Legal Ombudsman as he felt they were going around in circles and needed a referee. Mr C did an internet search on who was the best organisation to contact for his case and wrote a letter to the Legal Ombudsman regarding the 'Company' regarding their attitude and mishandling of the whole issue.

The Legal Ombudsman wrote back to Mr C to inform them that he should address the complaint to the Institute of Chartered Accountants (ICAEW), and detailed with the response the address of the ICAEW and who to write to and also gave a reference to their site on the internet. Mr C felt the Legal Ombudsman were very helpful in his dealing with them.

The letter from the Legal Ombudsman advised Mr C to direct his complaint to the Institute of Chartered Accountants (ICAEW) as the 'Company' was a Chartered Accountant and not a solicitor.

Mr C did follow up his complaint with the ICAEW, who dealt with the complaint excellently. They found that the 'Company' had instructed the business who held the shares to sell them. Mr C felt this would have embarrassed the 'Company' owner a little as the owner had previously informed Mr C that the business holding the shares had the right to sell the shares as Mr Cs account was in debit.

The case was resolved as the 'Company' offered a payment to Mr C to resolve the complaint and selling of the shares.

*"I had some shares with an organisation that went in to liquidisation. The company appointed to wind up the business sold some of my shares without my authority"*

*"I thought Antony Batty was a solicitor as he had the letters LLP after the company name"*

*"The Legal Ombudsman couldn't have done anything better at the time"*



## Section 4: Concluding thoughts

This study has captured an extremely wide variety of reasons why a consumer might contact LeO. Likewise, the sample has included a plethora of consumer motivations for contacting the LeO – several indicated they wanted to complain about a service or advice that they paid for but many others conceded that they had some broader concerns they wished to raise e.g. about the justice system in general. Some respondents admitted that they were just trying to access some legal advice.

Most consumers said that they contact LeO because they want an organisation to investigate a grievance that they have. In effect, many were hoping that the LeO would somehow act as a ‘champion’ for their cause. In desperation some consumers often send a ‘blanket’ request to multiple organisations in the hope that one of them will be relevant and will take the case on.

The study highlights a potential issue about how clearly signposting information is being delivered to consumers – the majority of consumers claimed that the Legal Ombudsman did not signpost them to another organisation which should not have been the case with this sample.

The more in-depth interviews often revealed that consumers were sometimes being passed from one organisation to another, causing both frustration and confusion. We also detected that this feature can often lead to consumers ‘giving up’ on the case; often because they did not know who else to turn to.

The study has captured limited evidence of genuine consumer confusion connected to a legal provider’s business model or its marketing – thus leading the consumer to believe that it would fall under the LeO’s remit. Most consumers told us that they simply *assumed* that it was a legal service (i.e. there was nothing specific that led to the confusion). In around one-third of cases was it found that a firm’s marketing/positioning can lead to consumer confusion.

Profiling data was also obtained in the survey and this is summarised in the Appendix. The findings highlight that there is not a ‘typical’ consumer who contacts the LeO and is perhaps confused about their jurisdiction or the business structure of the legal provider.

The Legal Ombudsman is still a relatively new body and is still building ‘market presence’ It seems that there is some confusion, and limited awareness, of how consumers can take their complaint further. This falls in line with findings from a Legal Services Board survey<sup>1</sup>, which found that two thirds would not know how to go about making a complaint if they were unsatisfied with the service they received from a lawyer.

Due to the very limited size of the available sample, we would highly recommend supplementing these findings with ‘new’ enquiries received by LeO and deemed to be out of jurisdiction in coming months.

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[http://www.legalservicesboard.org.uk/what\\_we\\_do/Research/Publications/pdf/lsb\\_summary\\_of\\_yougov\\_research.pdf](http://www.legalservicesboard.org.uk/what_we_do/Research/Publications/pdf/lsb_summary_of_yougov_research.pdf)

Appendix:

Quantitative Questionnaire

# Consumer confusion survey

The Legal Ombudsman opened in October 2010 to help solve complaints about lawyers in a free, impartial and independent way. However, there seems to be some confusion around which services are covered by Regulators and the Legal Ombudsman. An example of this is 'will writing' where this service is not always performed by a lawyer/solicitor.

As someone that has previously approached the Legal Ombudsman we are keen to understand your views, why you decided to contact us and how your enquiry was dealt with.

This survey should take you no longer than ten minutes to complete, and we appreciate you taking the time to give us your views. All responses and comments will remain confidential.

The survey is being administered by Research by Design, an independent market research company, on behalf of the Legal Ombudsman. If you have any queries about this survey, please contact Dave Ruston at Research by Design on 0121 643 9090 or email [daver@researchbydesign.co.uk](mailto:daver@researchbydesign.co.uk). Alternatively, for queries relating more specifically to the Legal Ombudsman, please contact Katie Leslie on 0121 245 3490 or email [katie.leslie@Legalombudsman.org.uk](mailto:katie.leslie@Legalombudsman.org.uk)

## Contacting the Legal Ombudsman

Firstly, which one of the following services did you contact the Legal Ombudsman about?

- Buying or selling a property
- Consumer purchases or contracts (goods or services)
- Compensation claim (e.g. clinical negligence, personal injury, PPI, etc)
- Debt management
- Employment issues
- Family related issues (e.g. child welfare, domestic violence)
- Housing related issues (e.g. eviction, neighbour disputes)
- Immigration
- Mediation services (e.g. civil mediation service, ACAS)
- Personal affairs (e.g. will writing)
- Other advice services (please specify below)

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In your own words, what was it about the service that prompted you to contact the Legal Ombudsman?

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## Contacting the Legal Ombudsman

**So overall, which of the following summarise your reasons for contacting the Legal Ombudsman?**

- To complain about service or advice that you or others paid for
  - To complain about service or advice that was provided free of charge (e.g. Citizens Advice Bureau)
  - To find out about your legal rights
  - To obtain some legal advice
  - To find out about compensation
  - I was unhappy with the way the legal or justice system was working
  - Other (please specify below)
- 

**What were you hoping the Legal Ombudsman could do for you?**

- Investigate your complaint
  - Review the outcome of my case
  - Prompt an apology from your supplier/advisor
  - Reprimand the provider/advisor and/or take disciplinary action
  - Penalise or fine the supplier/advisor
  - Refund or reduce your costs/fees
  - Pay you compensation
  - Other (please specify below)
- 

## Advice and guidance provided by other organisations

**Did the Legal Ombudsman suggest seeking advice and guidance from another organisation?**

- Yes
- No
- Can't remember

**Which one of the following organisations, if any, was suggested to you as your next step?**

- |  |  |  |
|--|--|--|
| <input type="checkbox"/> (Association of) Law Costs Draftsmen                  | <input type="checkbox"/> Community Legal Advice                                  | <input type="checkbox"/> Office of the Public Guardian                       |
| <input type="checkbox"/> (Association of) Residential Letting Agents           | <input type="checkbox"/> CPS (Crown Prosecution Service)                         | <input type="checkbox"/> Ombudsman Services Property                         |
| <input type="checkbox"/> (Association of) Residential Managing agents          | <input type="checkbox"/> Financial Ombudsman Service                             | <input type="checkbox"/> Pensions Ombudsman                                  |
| <input type="checkbox"/> (Independent) Parliamentary Standards Authority       | <input type="checkbox"/> Financial Services Authority                            | <input type="checkbox"/> Prisons & Probation Ombudsman                       |
| <input type="checkbox"/> (National Association of ) Estate Agents              | <input type="checkbox"/> Her Majesty's Courts Service HQ                         | <input type="checkbox"/> Probate Advisory Service                            |
| <input type="checkbox"/> (Office of the ) Public Guardian                      | <input type="checkbox"/> Immigration Services Commissioner                       | <input type="checkbox"/> Property Ombudsman                                  |
| <input type="checkbox"/> (Society of) Will Writers                             | <input type="checkbox"/> Insolvency Practitioner Association                     | <input type="checkbox"/> Royal Institute of Chartered Surveyors              |
| <input type="checkbox"/> ACAS (Advisory, Conciliation and Arbitration Service) | <input type="checkbox"/> Institute of Chartered Accountants of England and Wales | <input type="checkbox"/> Senior Courts Costs Office                          |
| <input type="checkbox"/> Association of Consulting Actuaries (ACA)             | <input type="checkbox"/> Judicial complaints                                     | <input type="checkbox"/> Supreme Court Costs Office (SCCO)                   |
| <input type="checkbox"/> UK border agency                                      | <input type="checkbox"/> Legal Services Commission                               | <input type="checkbox"/> The Office of the Immigration Services Commissioner |
| <input type="checkbox"/> Citizens Advice Bureau (CAB)                          | <input type="checkbox"/> Local government ombudsman                              | <input type="checkbox"/> Other (please specify below)                        |

Claims Management Regulator (MOJ)

National Association of Estate Agents

Don't know/can't remember

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**Did you contact this organisation?**

- Yes  
 No  
 Can't remember

**And did you receive the help and advice you needed?**

- Yes  
 No  
 Don't know/can't remember

**What was the outcome of your enquiry/complaint?**

- Enquiry/complaint still on-going  
 Did not pursue the enquiry/complaint further  
 Pursued the enquiry/complaint and gained some of the results you were after  
 Pursued the enquiry/complaint to gained all of the results you were after  
 Other outcome (please specify below)
- 

**What did you do next?**

- Looked for other help and support to continue your enquiry/complaint  
 Decided not to pursue the enquiry/complaint  
 Other (please specify below)
- 

**After contacting the Legal Ombudsman, did you seek advice and guidance from anywhere else, e.g. online help website, Citizens Advice Bureau, etc?**

- Yes  
 No

**To which of the following organisations did you turn, if any?**

- |  |  |  |
|--|--|--|
| <input type="checkbox"/> (Association of) Law Costs Draftsmen                  | <input type="checkbox"/> Community Legal Advice                                  | <input type="checkbox"/> Office of the Public Guardian                       |
| <input type="checkbox"/> (Association of) Residential Letting Agents           | <input type="checkbox"/> CPS (Crown Prosecution Service)                         | <input type="checkbox"/> Ombudsman Services Property                         |
| <input type="checkbox"/> (Association of) Residential Managing agents          | <input type="checkbox"/> Financial Ombudsman Service                             | <input type="checkbox"/> Pensions Ombudsman                                  |
| <input type="checkbox"/> (Independent) Parliamentary Standards Authority       | <input type="checkbox"/> Financial Services Authority                            | <input type="checkbox"/> Prisons & Probation Ombudsman                       |
| <input type="checkbox"/> (National Association of ) Estate Agents              | <input type="checkbox"/> Her Majesty's Courts Service HQ                         | <input type="checkbox"/> Probate Advisory Service                            |
| <input type="checkbox"/> (Office of the ) Public Guardian                      | <input type="checkbox"/> Immigration Services Commissioner                       | <input type="checkbox"/> Property Ombudsman                                  |
| <input type="checkbox"/> (Society of) Will Writers                             | <input type="checkbox"/> Insolvency Practitioner Association                     | <input type="checkbox"/> Royal Institute of Chartered Surveyors              |
| <input type="checkbox"/> ACAS (Advisory, Conciliation and Arbitration Service) | <input type="checkbox"/> Institute of Chartered Accountants of England and Wales | <input type="checkbox"/> Senior Courts Costs Office                          |
| <input type="checkbox"/> Association of Consulting Actuaries (ACA)             | <input type="checkbox"/> Judicial complaints                                     | <input type="checkbox"/> Supreme Court Costs Office (SCCO)                   |
| <input type="checkbox"/> UK border agency                                      | <input type="checkbox"/> Legal Services Commission                               | <input type="checkbox"/> The Office of the Immigration Services Commissioner |

- Citizens Advice Bureau (CAB)       Local government ombudsman       Other (please specify below)
- Claims Management Regulator (MOJ)       National Association of Estate Agents
- 

**What were your reasons for not pursuing your enquiry?**

- Did not know where else to turn
- Did not feel it would be successful
- The Legal Ombudsman had already given me enough information
- The Legal Ombudsman should have been able to do more
- Other (please specify below)
- 

**More information about the legal service you used**

**What was the name of the company or organisation that provided you with the service or and/advice you contacted the Legal Ombudsman about?**

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**How did you become aware of this company or organisation?** Please tick all that apply

- Told about the company/organisation by colleagues, family or friends
- Referred from other solicitor or legal services provider
- Received telephone call from the company/organisation
- Received text message (SMS) from the company/organisation
- TV or radio advertisement
- Article or advertisement in national paper
- Article or advertisement in local paper
- Found details online (e.g. Google search)
- Professional trade body listing
- Posters or leaflets
- Other (please specify below)
- 

**Did any of the following lead you to believe that the service should fall within the Legal Ombudsman's remit, if any?**

- I assumed it was a legal service
- The advertisement used the words 'Lawyer' or 'Lawyers'
- The advertisement used the words 'legal advice'
- The advertisement used the phrase 'no win, no fee'
- The advertisement included the phrase 'claims management' or 'claims management company'
- Concession stands in shopping centres offering fixed fee legal services, e.g. Will writing for £50

**About you**

**This final section is to allow us to make sure that we have consulted with a wide range of consumers. Your answers will remain anonymous and the data will not be used to identify individual cases.**

**Are you?**

- Male
- Female

**Within which age band do you fall?**

- 18 to 24
- 25 to 34
- 35 to 44
- 45 to 54
- 55 to 64
- 65+

**How would you describe your working status?**

- Working full-time
- Working part-time
- Self employed
- Unemployed and looking for work
- Unemployed and not currently looking for work
- Looking after home/family
- Student
- Retired
- Permanently sick or disabled
- Other

**Within which ethnic group do you consider you belong?**

- White - British/Irish/Other
- Black - Caribbean/African/Black British/Other
- Asian - Indian/Pakistani/Bangladeshi/Asian British/Other
- Mixed - White & Black/Asian/Other
- Chinese
- Other
- Prefer not to say

**Which of the following bands best describes your household annual income?**

- |   |   |  |
|---|---|--|
| <input type="checkbox"/> Under £10,000      | <input type="checkbox"/> £30,001 to £35,000 | <input type="checkbox"/> £70,001 to £80,000  |
| <input type="checkbox"/> £10,000 to £15,000 | <input type="checkbox"/> £35,001 to £40,000 | <input type="checkbox"/> £80,001 to £90,000  |
| <input type="checkbox"/> £15,001 to £20,000 | <input type="checkbox"/> £40,001 to £50,000 | <input type="checkbox"/> £90,001 to £100,000 |
| <input type="checkbox"/> £20,001 to £25,000 | <input type="checkbox"/> £50,001 to £60,000 | <input type="checkbox"/> £100,000+           |
| <input type="checkbox"/> £25,001 to £30,000 | <input type="checkbox"/> £60,001 to £70,000 | <input type="checkbox"/> Prefer not to say   |

**And finally, the Legal Ombudsman is interested in learning as much as possible about consumers who approached them for help, but fell outside its remit. This will allow them to consider whether other legal services, that are not currently covered, should be included in the future.**

**Would you be interested in participating in an interview of around 30 to 45 minutes to provide more details on your experiences? The interview would be conducted by an independent market researcher from Research by Design Ltd. Your identity will remain anonymous and your comments will be confidential. You will receive a financial reimbursement to compensate your time.**

- Yes
- No

Please provide your name and address below to enable Research by Design to contact you, should you be selected to participate. Thank you.

Name: \_\_\_\_\_  
\_\_\_\_\_

First line of address: \_\_\_\_\_  
\_\_\_\_\_

Second line of address: \_\_\_\_\_  
\_\_\_\_\_

County/Area: \_\_\_\_\_  
\_\_\_\_\_

Postcode: \_\_\_\_\_

Email address: \_\_\_\_\_  
\_\_\_\_\_

Home telephone: \_\_\_\_\_  
\_\_\_\_\_

Mobile telephone: \_\_\_\_\_  
\_\_\_\_\_

**THANK YOU FOR COMPLETING THIS SURVEY**

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|  
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:  
|  
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## Appendix:

### Online survey demographic responses

**Total respondents taking part in the study = 33**

<b>Gender</b>	<b>Total</b>	<b>Percentage</b>
Male	15	45.5%
Female	18	54.5%

<b>Age</b>	<b>Total</b>	<b>Percentage</b>
18 to 24	0	0.0%
25 to 34	3	9.1%
35 to 44	6	18.2%
45 to 54	9	27.3%
55 to 64	8	24.2%
65+	6	18.2%
Prefer not to say	1	3.0%

<b>Age</b>	<b>Total</b>	<b>Percentage</b>
Working full-time	12	36.4%
Working part-time	2	6.1%
Self employed	1	3.0%
Unemployed and looking for work	5	15.2%
Unemployed and not currently looking for work	1	3.0%
Looking after home/family	4	12.1%
Student	0	0.0%
Retired	7	21.2%
Permanently sick or disabled	0	0.0%
Other	0	0.0%
Prefer not to say	1	3.0%

<b>Ethnic Origin</b>	<b>Total</b>	<b>Percentage</b>
White - British/Irish/Other	24	72.7%
Black - Caribbean/African/Black British/Other	2	6.1%
Asian - Indian/Pakistani/Bangladeshi/Asian British/Other	2	6.1%
Mixed - White & Black/Asian/Other	2	6.1%
Chinese	0	0.0%
Other	0	0.0%
Prefer not to say	3	9.1%

<b>Household Income</b>	<b>Total</b>	<b>Percentage</b>
Under £10,000	8	24.2%
£10,000 to £15,000	4	12.1%
£15,001 to £20,000	2	6.1%
£20,001 to £25, 000	1	3.0%
£25,001 to £30,000	3	9.1%
£30,001 to £35,000	2	6.1%
£35,001 to £40,000	1	3.0%
£40,001 to £50,000	0	0.0%
£50,001 to £60,000	4	12.1%
£60,001 to £70,000	0	0.0%
£70,001 to £80,000	0	0.0%
£80,001 to £90,000	0	0.0%
£90,001 to £100,000	1	3.0%
£100,000+	2	6.1%
Prefer not to say	5	15.2%