

First-tier complaints handling

Implementation - Progress Review Report

February 2011

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1. EXECUTIVE SUMMARY

- 1.1 The LSB said in its Business Plan that it would carry out its duty to assist in the maintenance of standards in regulation by approved regulators and that we would do this by conducting thematic regulatory reviews. This report summarises the LSB's initial review of approved regulators' development and implementation of the first-tier complaints handling¹ requirements of the Legal Services Act 2007 (**Act**).
- 1.2 It follows publication in May 2010 of our guidance² that aimed to ensure that consumers have satisfactory complaints handling processes available to them and that they understand both their right to complain if a lawyer provides an unsatisfactory service, and to complain to the Legal Ombudsman if they are not satisfied with the way their complaint has been considered. We said in the guidance that we expect approved regulators to achieve the following outcomes when regulating first-tier complaints:
- Consumers have confidence that:
- complaint handling procedures provide effective safeguards for them; and
 - complaints will be dealt with comprehensively and swiftly, with appropriate redress where necessary.
- 1.3 It is important that the LSB follows up on its policy initiatives to ensure they are delivering the right outcomes for consumers and that approved regulators are achieving progress through implementing and administering regulatory arrangements effectively.³ This is why we have reviewed the progress of approved regulators in implementing the first-tier complaints handling requirements. A copy of the general questions sent to each approved regulator as part of the review is at **Annex A**.
- 1.4 Our review has shown that most approved regulators have been proactive in making changes to their regulatory arrangements to require those they regulate to have effective complaint handling procedures in place, including providing information about how to complain to the Legal Ombudsman. We will continue to work closely with those that have made least progress so far (the Master of the Faculties and the Association of Law Costs Draftsman) to ensure that they reach an appropriate standard as soon as possible so that consumers that use notaries and costs lawyers are properly protected.

¹ When we use the term 'first-tier' complaints handling we mean the handling of complaints 'in-house' or at the first point of contact for a dissatisfied client, usually the legal advisor or firm responsible for providing the legal service of concern.

²http://www.legalservicesboard.org.uk/Projects/pdf/10_05_24_lsb_signposting_requirement_and_guidance_Decision_document.pdf

³ See section 21 of the Act for the definition of regulatory arrangements. Broadly this includes rules, guidance or other similar arrangements that apply to authorised persons.

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- 1.5 Three key themes for further work have emerged from this assessment:
- i. A need for the implementation of robust first-tier complaints data collection methodologies
 - ii. A lack of consumer focus in approved regulators' information gathering activities
 - iii. An overall need for approved regulators to develop a more structured approach to using the various sources of information available from complaints to inform their regulatory activities.
- 1.6 We expect approved regulators, through their monitoring and enforcement action, to ensure that those they regulate are achieving the outcomes for consumers that we have specified. To date, approved regulators have generally had poor first-tier data collection processes and systems in place. This would make it difficult for them to identify systemic issues and adopt a targeted approach to regulation.
- 1.7 The proposed enforcement methodologies of the approved regulators include collecting first-tier and second-tier (from the Ombudsman) data to inform regulatory decision making, though for most, this will not occur until late 2011. We are concerned that approved regulators do not have firm plans to collect information about consumer-client satisfaction with complaint handling. If regulators do not obtain this type of information about consumers it is difficult to see how they can assess whether consumers consider that the outcomes are being achieved.
- 1.8 Effective complaint handling provides a significant opportunity to increase consumer-client awareness about their right to complain. Complaints are a useful source of information to detect and correct poor customer experiences, thereby improving service delivery, competitiveness and profitability. In this way legal service providers can differentiate themselves from their competitors thereby ultimately benefitting consumers and lawyers alike.
- 1.9 The LSB will therefore continue to work closely with approved regulators on these issues over the coming months to ensure there is a robust framework and delivery timeframe in place for the regulation of complaints handling.

2. Background

- 2.1 In mid-2009 as part of the Office for Legal Complaints consultation *Scheme Rules Discussion Paper*⁴, the LSB consulted on whether it should specify a common set of complaints handling principles. Following consideration of the responses and the fact that at that stage approved regulators had not yet had the opportunity to address the issue under the new regulatory framework, the LSB decided that in the first instance, the responsibility for ensuring effective first-tier complaints handling should rest with approved regulators.
- 2.2 The LSB therefore decided not to specify detailed requirements, with the caveat that it would review this decision if it detected that there was insufficient improvement in the way in which complaints were being dealt with by lawyers. The LSB therefore consulted with industry and consumer groups on a set of outcomes that consumers should reasonably be able to expect from an effective complaints handling process.
- 2.3 In May 2010 these outcomes were published as Guidance under the Act⁵ to guide the approved regulators in the development of complaints handling arrangements and provide a standard for assessing consumer experience. The detail of determining how to ensure that those they regulate established effective procedures was left to the approved regulators.
- 2.4 The LSB did consider it necessary to introduce specific ‘signposting requirements’ (**Annex B - LSB Guidance and signposting requirements**) to ensure that lawyers tell consumers that they have a right to complain to the Legal Ombudsman. This is important for consumer protection and confidence and key to the effective operation of the Legal Ombudsman scheme.
- 2.5 We said that approved regulators should have implemented these requirements and told those they regulate about these obligations by the time the Legal Ombudsman became operational on 6 October 2010.

⁴ <http://www.legalombudsman.org.uk/downloads/documents/consultations/OLC%20discussion%20paper.pdf>

⁵ Section 162 of the Act

3. Approach

- 3.1 The questions we asked approved regulators in our initial review were designed to elicit responses that would facilitate an assessment of the progress that they have made to achieve compliance with the first-tier complaints handling requirements. This includes an assessment of compliance with the requirements:
- i. to establish and maintain effective complaint handling procedures⁶; and
 - ii. specified by the LSB⁷ about signposting consumers to the Legal Ombudsman.
- 3.2 We recognise that the scope of this review is, in the main, limited to an assessment of whether approved regulators have made changes to their regulatory arrangements to ensure procedural compliance with the complaints handling requirements of the Act. However, the Act also requires approved regulators to have regard to the principles under which regulatory activities should be proportionate, consistent and targeted and any other principle that represents best regulatory practice.⁸ For approved regulators to be consistent with this we consider that they must establish arrangements and processes for assessing, reviewing and learning from qualitative changes in consumers' experience of complaints handling and we therefore considered it appropriate to provide comment on this.
- 3.3 We recognise in our assessment that the requirements of the Act mean that approved regulators have to undergo significant structural changes. However, dealing well with complaints is a key pillar of the reform of legal services and we expect all approved regulators to implement appropriate monitoring and evidence-based enforcement procedures. We will use our reviews to develop an evidence base in case further regulatory action is needed.

⁶ Section 112(1) of the Act

⁷ Section 112(2) of the Act

⁸ Section 28(3) of the Act

Requirement to establish and maintain effective complaint handling procedures⁹

3.4 We have considered three main assessment criteria:

- i. Do the regulatory arrangements make provision requiring relevant authorised persons to have first-tier complaints handling procedures in place?
- ii. Are those regulatory arrangements effective? That is, are they likely to result in outcomes that consumers should reasonably be able to expect from effective complaints handling, having regard to the published LSB Guidance?¹⁰
- iii. Do the regulatory arrangements make provision for the enforcement of the requirements? What mechanisms does the approved regulator have in place to provide for the collection of appropriate evidence to inform regulatory activity in relation to individual and systemic issues and for assessing their regulatory framework?

LSB signposting requirements¹¹

3.5 The Signposting requirements are that:

Approved Regulators must require all individuals and entities they regulate to notify all clients in writing:

- a. at the time of engagement, or existing clients at the next appropriate opportunity, of their right to make a complaint, how and to whom this can be done (including their right to complain to the Legal Ombudsman at the conclusion of the complaint process, the timeframe for doing so and full details of how to contact the Legal Ombudsman); and
- b. at the conclusion of the complaint process of their right to complain to the Legal Ombudsman, the timeframe for doing so and full details of how to contact the Legal Ombudsman.

3.6 The assessment criteria for the LSB signposting requirements centred on establishing whether approved regulators had made appropriate changes to their regulatory arrangements to ensure that those they regulate achieve the outcomes specified by the requirements.

⁹ Section 112(1) of the Act

¹⁰ See Annex B.

¹¹ Section 112(2) of the Act

ASSESSMENT OF PROGRESS

4. Requirement to make provision for complaints handling and enforcement – section 112(1)

Do the regulatory arrangements make provision requiring relevant authorised persons to have first-tier complaints handling procedures in place?

- 4.1 The Act obliges approved regulators to ensure that their regulatory arrangements require those they regulate to have an effective complaints handling procedure for consumers. This part of the Act was commenced on 1 October 2010.¹²
- 4.2 The Solicitors Regulation Authority (SRA), Bar Standards Board (BSB), Council for Licensed Conveyancers (CLC), ILEX Professional Standards (IPS), Intellectual Property Regulation Board (IPReg) had introduced a mandatory requirement to have complaint handling procedures by the time this part of the Act was commenced.

LSB assessment

The SRA, BSB, CLC, IPS and IPReg, to different degrees, have been proactive in addressing these important changes to their regulatory arrangements. We consider that this shows a willingness to comply with the form and spirit of the Act and it is important that this continues to be applied to the practical issues associated with ensuring compliance.

Historically, the Master of Faculties had established complaints handling procedures administered by the notarial profession to resolve complaints made against notaries. But neither the Master of the Faculties nor the Association of Law Costs Draftsman (ALCD)¹³ required those they regulated to have complaints handling procedures in place. Nor did they introduce procedures by 6 October 2010. The background issues for each of these approved regulators are different and the LSB has sought to resolve matters informally with the Master of the Faculties and the ALCD. The LSB considers that the progress made to date shows that this is a proportionate approach to ensure that consumers who use notarial services and costs lawyers are receiving the regulatory protection afforded by the Act.

The Master of the Faculties has now submitted changes to its regulatory arrangements to the LSB as part of its rule approval process to achieve

¹² The Legal Services Act 2007 (Commencement No 8, Transitory and Transitional Provisions) Order 2010 SI 2010 No 2089

¹³ With effect from 1 January 2011 the ALCD has been trading as the Association of Costs Lawyers

compliance. At the time of publication of this report the LSB is considering those changes.

The ALCD is currently in the early stages of undertaking significant and broad structural changes to its regulatory arrangements. This includes ensuring that its regulatory arrangements are compliant with the Act. In October 2010 the ALCD established the Costs Lawyers Standards Board (CLSB). The ALCD intends to delegate its regulatory functions to the CLSB by 31 October 2011 at the latest. The LSB has therefore agreed with the ALCD/CLSB that, as part of its wider restructuring, it must ensure that it achieves compliance with the Act. However, we do not consider that it would be proportionate to require the ALCD/CLSB to focus its resources on making interim changes pending the outcome of these wider changes. We accept, therefore, that as a consequence of the restructuring, the CLSB will work to comply with section 112 of the Act as part of its broader work and development of a new code.

Are those regulatory arrangements effective? That is, are they likely to result in outcomes that consumers should reasonably be able to expect from effective complaints handling, having regard to the published LSB Guidance?

- 4.3 The SRA, BSB, IPReg, CLC and IPS have made changes to their regulatory arrangements that require relevant authorised persons to achieve the outcomes for consumers that the LSB published in its Guidance on first-tier complaints handling.

LSB assessment

It is positive that approved regulators have placed obligations on those they regulate to achieve the required outcomes for consumers from complaints handling. This demonstrates a focus on outcomes over rules, by placing the interests of consumers at the heart of those obligations. Requirements that are consumer-focussed provide recognisable objectives and approved regulators and the LSB can monitor whether they are being achieved. This is a necessary first step to achieving better results from complaints handling for consumers.

Our Guidance places an obligation on *approved regulators* to achieve certain outcomes for consumers from the regulation of complaints handling. We therefore expect approved regulators to assess whether those they regulate have successfully, firstly, translated the outcomes into effective procedures and processes and secondly, have delivered them. This will require monitoring and enforcement activity.

The next stage of our work will focus on whether and how approved regulators are doing this. From this the LSB will consider the range of regulatory tools that it can use in order to ensure that regulation is carried out in a way that delivers effective complaint handling outcomes for consumers.

Do the regulatory arrangements make provision for the enforcement of the requirements? What mechanisms does the approved regulator have in place to provide for the collection of appropriate evidence to inform regulatory activity in relation to individual and systemic issues and for assessing their regulatory framework?

- 4.4 The Act also requires approved regulators to make provision for the enforcement of the requirement to have effective complaints handling procedures. Implicit in this is the requirement that approved regulators develop an appropriate evidentiary basis to enable them to consider whether there is a need to investigate specific matters, to identify systemic issues for wider compliance work and for assessing the outcomes achieved by their current regulatory framework against regulatory objectives and consumer experience.
- 4.5 We consider that it is a matter for each approved regulator to develop data collection methodologies that are appropriate to the risk posed by those it regulates, and by reference to the principles of better regulation and best regulatory practice. To aid the development of appropriate methodologies and comparable data sets, in July 2010 we held a data collection workshop where we identified the most immediately attainable data sources for approved regulators. These are
1. First-tier data from relevant authorised persons
 2. Second-tier data from the Legal Ombudsman
 3. Consumer-client research
- 4.6 We discussed how each of these data sources has its limitations for informing regulatory activity and therefore has limited use in isolation. However when each data source is used as a method for verifying the other, they present a powerful (and available) resource for approved regulators to use to identify patterns of behaviour and issues of systemic risk. We have emphasised that of these, first-tier data potentially presents the richest and most powerful source of information to raise quality standards. This is supported by research which indicates that most first-tier complainants who remain dissatisfied do not take their complaint further¹⁴.
- 4.7 The LSB therefore expects approved regulators to develop appropriate ways to collect information about complaint handling which include being able to compare information from different data sources. It will therefore be important that collection methodologies are thought through thoroughly, data categories

¹⁴ Ministry of Justice (2010) Baseline survey to assess the impact of legal services reform; ComRes (2009) Consumer research study 2008: A survey of public attitudes towards solicitors conducted on behalf of the Solicitors Regulation Authority

are coordinated and that systems and processes are developed for using effectively all reasonably available information to inform regulatory activity.

- 4.8 We are concerned that to date there have not been robust first-tier complaint data collection processes in place and there is currently not a significant amount of data available for informing regulatory activity. As such, first-tier complaints data has not systematically informed approved regulators' decision making processes.

Activity of approved regulators

- 4.9 The SRA is in the process of developing its new supervision arrangements for the introduction of its regulatory reform programme, known as Outcomes Focused Regulation (or OFR), which will start in October 2011 and is investing significant resource in this. Between now and October the SRA is undertaking a baselining project, which involves visiting some firms to collect data, including information about complaints. It is also in the process of developing a new Consumer Affairs strategy. The proposals include various consumer research projects being carried out during the Spring/Summer of 2011, including establishing a benchmark for consumer outcomes against which research comparisons can be carried out at intervals following the implementation of OFR. The SRA is also working, with other approved regulators, on establishing a public network which will enable them to discuss with consumers their concerns about legal services and the way they are regulated.
- 4.10 The BSB introduced an all chambers monitoring scheme in 2010 which gathers information from chambers on four areas of regulatory compliance, including complaints handling. Chambers are required to respond by self-assessing how complaints handling regulatory policies and procedures are applied.
- 4.11 IPReg has advised those it regulates that it will begin collecting information when practice fees requests are returned and by sampling at the end of 2011. The CLC has said it will continue to undertake inspections based on risk profiling. It will also collect data through the information it receives as part of conveyancing practices' annual returns – though it is also developing a new management information system that will permit more frequent data collection. IPS will be collecting data from annual practice fee invoices.
- 4.12 The SRA, BSB, CLC, IPReg and IPS have put in place memoranda of understanding with the Legal Ombudsman to obtain second-tier complaints data.

LSB assessment

Notwithstanding that the regulatory arrangements of approved regulators provide scope for enforcement, effective enforcement requires the capacity to gather information and take appropriate action in the event that non-compliance is detected. We will therefore expect to see evidence of a reasonable level of collection and use of data in order to inform enforcement and/or compliance activity.

First-tier data collection

BSB's recently implemented chambers monitoring scheme appears to be the most developed and comprehensive method of all the approved regulators for gathering information directly from those they regulate. This is likely to provide the BSB with a sound baseline of first-tier information about the barristers' compliance and a platform for further investigation and regulatory decision making.

Collecting information from annual returns, as planned by the SRA, CLC, IPReg and IPS, should also provide comprehensive data from across those they regulate. However we are concerned that in some cases this will not occur until well into 2011. Some approved regulators will therefore not have undertaken a qualitative and procedural assessment themselves until a year after the Ombudsman started to consider complaints.

Second-tier data collection

We note that the ALCD/CLSB and the Master of Faculties have not yet confirmed whether they have put in place memoranda of understanding with the Legal Ombudsman. Within the context of the regulatory position of both these approved regulators outlined in this report we expect them to do so as soon as possible to ensure that they have as much information as possible on which to base their future decisions. We understand that the ALCD/CLSB and the Master of the Faculties have been in discussions with the Legal Ombudsman on this issue.

Consumer-client research

With the exception of the SRA, we have not been provided with any information about approved regulators' plans to obtain information directly from consumer-clients. We are concerned that information about consumers' experience, which should underpin policy making, seems to be missing from the regulatory information sources of approved regulators. We expect approved regulators (together, if appropriate) to develop methods to obtain this information without incurring disproportionate costs, although we appreciate that smaller approved

regulators may need a different approach in light of comparative risk assessments and resource constraints.

The LSB will be undertaking its own consumer research in early 2011.

Summary

Some approved regulators have more developed methods for proactively collecting first-tier data than others. Any lags in development and implementation is likely to seriously limit the information sources available for approved regulators' decision making and indicates that most approved regulators may not have sufficient data to regulate first-tier complaints handling effectively until well into 2012.

Issue emerging from the assessment

Approved regulators who regulate people employed in firms regulated by *other* regulators (for example, legal executives working in firms regulated by the SRA) have said that they are not able to collect first-tier information because:

- a. Those they regulate do not have access to data; or
- b. The complaint handling process is in effect regulated by the regulator of the firm; or
- c. Those they regulate do not handle complaints.

Though we understand these points, we do not accept that it follows that this means that these approved regulators are unable to or should not obtain data about the activities of those they regulate. Without robust data, approved regulators are unable to identify individual and systemic issues, assess and then affect behaviour where necessary.

We have been consistent in our messaging that these approved regulators must collect this information. This should involve putting in place memoranda of understanding with approved regulators who regulate the entities that their members work in order to obtain information about complaints against them.

5. Signposting requirements – section 112(2)

5.1 In May 2010 the LSB specified requirements¹⁵ that:

Approved regulators must require all individuals and entities they regulate to notify all clients in writing:

- a. at the time of engagement, or existing clients at the next appropriate opportunity, of their right to make a complaint, how and to whom this can be done (including their right to complain to the Legal Ombudsman at the conclusion of the complaint process, the timeframe for doing so and full details of how to contact the Legal Ombudsman); and
- b. at the conclusion of the complaint process of their right to complain to the Legal Ombudsman, the timeframe for doing so and full details of how to contact the Legal Ombudsman.

5.2 We told approved regulators that those they regulate must have received notification of these requirements by the time the Ombudsman started receiving complaints in order to improve consumer engagement, awareness and, consequently, the effectiveness of the Ombudsman to carry out its function.

LSB assessment

We are pleased with the progress made - most approved regulators have made provision in their regulatory arrangements for the signposting requirements.

As part of the next stage of the review of first-tier complaints regulation we will assess how approved regulators are monitoring compliance with this requirement.

We are aware of guidance and promotional material being issued by approved regulators about the signposting requirements. This is likely to have raised both consumer and practitioner awareness. In addition, the Legal Ombudsman will play a key role in detecting non-compliance with the requirements.

Issue emerging from the assessment – signposting by barristers

The LSB has worked closely with the BSB to develop appropriate solutions for barristers. There is common agreement about the importance of achieving the outcomes for consumers that we have specified, whilst recognising that in a limited number of cases it may be difficult for a barrister to contact a client direct. In fact, our discussions with the BSB established that the requirements currently in force are not substantially different from what was required of barristers previously, although there may be a degree of misunderstanding about what has

¹⁵ Under section 112(2) of the Act.

actually changed. We will consider any changes that the BSB proposes to ensure that its requirements are effective in practice.

The LSB has sought to resolve this matter informally with the Master of the Faculties and the ALCD/CLSB and considers that the progress made to date shows that this is a proportionate approach to ensure that consumers who use notarial services and costs lawyers are told about their right to complain and about the Legal Ombudsman.

Together with the proposed changes discussed in section 4, the Master of the Faculties has now submitted changes to its regulatory arrangements to the LSB as part of its rule approval process to achieve compliance with the Signposting requirements. At the time of publication of this report we were considering those changes.

As we explained in section 4, the ALCD is currently in the early stages of undertaking significant and broad structural changes to its regulatory arrangements. This includes ensuring that its regulatory arrangements are compliant with the Act. In October 2010 the ALCD established the CLSB. The ALCD intends to delegate its regulatory functions to the CLSB by 31 October 2011 at the latest. The LSB has therefore agreed with the ALCD/CLSB that, as part of its wider restructuring, it must ensure that it achieves compliance with the Act. However, we do not consider that it would be proportionate to require the ALCD/CLSB to focus its resources on making interim changes pending the outcome of these wider changes.

In addition, we have told the Master of the Faculties and the ALCD/CLSB that they must carry out appropriate communications and guidance work to ensure that those they regulate are aware of their obligations. As an interim measure, the CLSB has put information on its website and in the Law Cost Journal to tell law cost lawyers that they must have effective procedures in place for the resolution of complaints.

6. Overall assessment

- 6.1 Overall, on a procedural assessment of compliance with the complaints handling requirements of the Act, we are satisfied that the regulatory arrangements of the SRA, BSB, CLC, IPS and IPReg are compliant. However, a full assessment of the effectiveness of approved regulators' arrangements can only be made when the LSB and approved regulators evaluate whether the outcomes for consumers are being achieved.
- 6.2 We have assessed that, with the exception of the BSB, approved regulators have not yet fully implemented their processes for obtaining the regulatory information available from first-tier complaints handling. It follows that those approved regulators that do not have appropriate data collection processes in place would find it difficult to enforce the requirements effectively. We are concerned that it may not be until towards the end of 2011 before sufficient information is obtained to assess whether consumers are being appropriately informed about their right to complain and whether the consumer outcomes are being achieved. We will be closely monitoring progress including any interim arrangements that approved regulators put in place to address this concern.
- 6.3 We have considered whether it would be appropriate for us to introduce standardised requirements for complaint handling and have concluded that it is not necessary. The issue of lack of appropriate data collection would not be resolved by standardising requirements. In addition, good complaint handling is a way in which lawyers can differentiate themselves from their competitors.
- 6.4 We will continue to work with approved regulators to assist lawyers to realise the benefits that can be achieved from improving clients' experience when things go wrong.

7. Next steps

- 7.1 We will follow up this review with a more qualitative focussed review of consumers' experience of first-tier complaints handling.
- 7.2 We will continue to work closely with approved regulators over the next few months to consider how best to obtain information from consumers about standards of complaint handling and will take the lead on the development of a first-tier complaints handling consumer research methodology. We will also work with the approved regulators on ensuring that they develop a timescale for obtaining and using appropriate information about complaints.
- 7.3 As a first step, the LSB is developing a research methodology and will conduct its own consumer research in early 2011. The research will set a baseline for consumer satisfaction with first-tier complaints handling in legal services against which the LSB and approved regulators can measure change over time. We will also use the results of that research in our considerations of whether approved regulators' regulatory arrangements achieve the outcomes consumers should be able to expect from effective complaints handling. We will share the research methodology and publish all the data we obtain from this exercise.
- 7.4 Given that this review has revealed that approved regulators have relatively poor data collection methodologies in place and that plans to address this will, in general, not take effect until late 2011, we will pay closer scrutiny to this in the next review of complaints handling. As part of the next review, we will look closely at how approved regulators have developed data collection sources to identify particular and systemic issues to inform decision making and, more widely, how they assess and respond to consumers' experience of complaints handling. This will provide an opportunity to assess the effectiveness of the regulatory framework for complaints handling and to develop action plans where regulatory gaps and/or areas for improvement are revealed.
- 7.5 We will engage with approved regulators in the development of our proposed methodology for the next review shortly. We expect that this review to be a mixture of a qualitative and procedural assessment review which we plan to repeat in 2012.

Action points emerging for approved regulators

7.6 We asked approved regulators to tell us the timescales for the next stages of work that they are carrying out to improve complaint handling. This table sets out their responses. We will be discussing these points with each of the approved regulators in order to understand the challenges they face and to ensure there is an appropriate timeframe for achieving the action points.

Approved regulator	Issue identified for approved regulators to address	Date
SRA	<ol style="list-style-type: none"> 1. The SRA to keep the LSB informed and involved with its complaints handling monitoring it plans to implement in October 2011. 2. The SRA to obtain and use data about consumer-clients experience with relevant authorised persons. 3. The SRA to assess whether authorised persons have successfully translated the outcomes for consumers in its regulatory arrangements into effective procedures and processes and that they have delivered them. 	<ol style="list-style-type: none"> 1) Ongoing – still developing proposals. 2) Commence Spring/Summer 2011 3) Ongoing - commenced November 2010
BSB	<ol style="list-style-type: none"> 1. The BSB to address issues it has identified with implementation and compliance with of the Signposting requirements by barristers. 2. The BSB to obtain and use data about consumer-clients experience with relevant authorised persons. 3. The BSB to assess whether authorised persons have successfully translated outcomes for consumers into effective procedures and processes and that they have delivered them. 	<ol style="list-style-type: none"> 1) June 2011 2) Feasibility study to be completed by December 2011 with detailed proposals by March 2012 3) Commence October 2011
CLC	<ol style="list-style-type: none"> 1)The CLC to demonstrate it is obtaining and using for regulatory purposes: <ol style="list-style-type: none"> a. complaints data b. data about consumer-clients experience with relevant authorised persons. 2) The CLC to assess whether authorised persons have successfully translated outcomes 	<ol style="list-style-type: none"> 1)(a) 1st quarter 2012 1) (b) 2nd quarter 2012 2) 4th quarter 2012

	for consumers into effective procedures and processes and that they have delivered them.	
IPReg	<ol style="list-style-type: none"> 1) IPReg to demonstrate it is obtaining and using appropriate information about complaints for regulatory purposes 2) IPReg to assess whether authorised persons have successfully translated the outcomes for consumers in its regulatory arrangements into effective procedures and processes and that they have delivered them. 	<ol style="list-style-type: none"> 1) June 2012 2) Dec 2012/Jan 2013
IPS	<ol style="list-style-type: none"> 1) IPS to demonstrate it is obtaining and using appropriate information about complaints for regulatory purposes. 2) IPS to develop a mechanism for obtaining information in relation to complaints about or relating to its members that are working in firms, regulated by other regulators. 3) IPS to assess whether authorised persons have successfully translated the outcomes for consumers in its regulatory arrangements into effective procedures and processes and that they have delivered them. 	<ol style="list-style-type: none"> 1) Commence 2nd quarter 2011 2) Pursue with SRA 2nd quarter 2011 3) End 2011
ALCD/CLSB	The ALCD/CLSB to make appropriate changes to its regulatory arrangements to achieve compliance with section 112 as part of its broader structural changes to its regulatory arrangements	Ongoing as part of wider structural changes
The Master of the Faculties	The Master of the Faculties to have made appropriate changes to its regulatory arrangements to achieve compliance with section 112(1) and (2) (the LSB signposting requirements).	LSB currently considering proposed rule change

Annex A – Questions sent to each approved regulator

Please feel free to elaborate as to foreseeable future plans in response to any of the questions below or provide additional information you consider appropriate. Please provide references or attach reports where appropriate.

1. What is your assessment of your progress with your action plan submitted to the LSB in March 2010 and the LSB's response? Please include reference to any changes that have been made, yet to be made or abandoned? Please make sure you cover:
 - a. how your regulatory arrangements make provision requiring your relevant authorised persons to maintain effective procedures for the resolution of relevant complaints;
 - b. how you comply with the Signposting requirements and how you have communicated those requirements to those you regulate;
 - c. how your regulatory arrangements make provision for the enforcement of those requirements;
 - d. how in practice any other activity you undertake will achieve compliance;
 - e. how you intend to assess the effectiveness of these regulatory arrangements, including how you assess whether the outcomes in the Guidance are being achieved and how you have complied with the Guidance on achieving the complaints handling outcomes. In your response please describe your data collection and monitoring processes and how you intend to use first-tier and second-tier (from the Legal Ombudsman) information.
2. What guidance, education, training or other assistance you provide to your members to assist them to achieve effective first-tier complaints handling?
3. What resources are allocated to the regulation of complaints handling? In your response please identify the allocation of staff, budget and why you consider this is appropriate.



First-tier complaints handling

Requirements under s 112(2) of the Legal Services Act 2007

Guidance on first-tier complaint handling

May 2010

Legal Services Act 2007 s 112(2) requirements

The LSB has specified a requirement that:¹⁶

Approved regulators must require all individuals and entities they regulate to notify all clients in writing:

- c. at the time of engagement, or existing clients at the next appropriate opportunity, of their right to make a complaint, how and to whom this can be done (including their right to complain to the Legal Ombudsman at the conclusion of the complaint process, the timeframe for doing so and full details of how to contact the Legal Ombudsman); and
- d. at the conclusion of the complaint process of their right to complain to the Legal Ombudsman, the timeframe for doing so and full details of how to contact the Legal Ombudsman.

This guidance may be updated from time to time.

Outcomes from first-tier complaints handling

We expect approved regulators to achieve the following outcomes when regulating first-tier complaints:

Consumers have confidence that:

- complaint handling procedures provide effective safeguards for them; and
- complaints will be dealt with comprehensively and swiftly, with appropriate redress where necessary.

Achieving the complaints handling outcomes

Consideration of complaints

We consider that a complaint means an oral or written expression of dissatisfaction which alleges that the complainant has suffered (or may suffer) financial loss, distress, inconvenience or other detriment.¹⁷

First-tier complaint handling processes must be convenient and easy to use (in particular for those that are vulnerable or have disabilities). They should make provision for complaints to be made by any reasonable means. The way in which complaints are dealt with must be transparent and clear in relation to process, well publicised and free. The process itself should be prompt and fair, with decisions

¹⁶ Section 112(2)

¹⁷ This is consistent with the Legal Ombudsman's definition. If this changes then we would expect ARs' guidance to remain consistent with the change

based on a sufficient investigation of the circumstances. Where appropriate, there should be an offer of a suitable remedy.

The Legal Ombudsman

Most consumers will be able to make a complaint to the Legal Ombudsman about the services they received after they have exhausted first-tier complaints processes. Therefore approved regulators should ensure that those they regulate provide sufficient information to all consumers to enable them to identify whether they do have a right to take their complaint to the Legal Ombudsman and to contact the Legal Ombudsman direct to clarify whether they can.

We consider that it is appropriate to let existing clients know of their rights in relation to complaints if that client enters into new terms with the legal service provider or if they make a complaint. We agree that it is not proportionate for there to be a requirement to notify clients who have no further contact with a legal service provider. For the avoidance of doubt, we do expect consumers who are “mid-contract” to be notified of their right to complain.

We expect approved regulators to work with the Legal Ombudsman to develop information for consumers.

Monitoring and enforcement

Approved regulators should ensure that those they regulate understand their responsibilities in relation to first-tier complaints handling and are appropriately held to account for their performance. This means that approved regulators must be able to effectively and efficiently identify good practice and be able to address systemic and specific issues in first-tier complaints handling. This will require appropriate monitoring and data gathering systems. Where problems are identified, appropriate regulatory action should be swift.

Guidance to barristers

When a self-employed barrister is instructed by a solicitor (or other similar circumstances) consumers must be told how to make a complaint about the barrister (as well as the information they will already have about their solicitor’s complaint process). It is not sufficient that the information is simply available to consumers – there is a positive obligation for barristers to provide it. This will enable the consumer to make the complaint direct to Chambers and will assist with ensuring Chambers and barristers receive complaints and encourage resolution of them. Information about the Legal Ombudsman must be provided in the same way as for other complaints. If one complaint is made that in practice concerns both a solicitor and a barrister we expect them to agree how it should be considered with the aim of minimising inconvenience and delay to the consumer.