



Consumer experiences of complaint handling in the legal services market

Legal Ombudsman

Executive summary
August 2012

1 Executive Summary

1.1 Context to this research

1.1.1 This research was commissioned by the Legal Ombudsman and the Legal Services Consumer Panel, in order to investigate consumer experiences in the legal services market. The core objective of this research was to investigate consumers' expectations and experiences of the complaints handling processes within the legal services sector. In order to meet this core objective, the following sub-objectives were the focus of this research:

- **Objective 1:** Explore the challenges, barriers and enablers faced by consumers as they progress through the complaints process.
- **Objective 2:** Investigate consumers' experiences of the first tier complaints processes and what they envisage to be 'best practice' in complaints handling.
- **Objective 3:** Explore key drivers and outcomes for 'premature complainants'.

1.1.2 The research was divided into two parts. The first analysed the attitudes and experiences of first-tier complainants within legal services to understand what typifies both good and bad complaints processes. A qualitative approach was taken, with 30 interviews conducted with legal service users. The sample was split by level of satisfaction, with 15 interviewees broadly satisfied with their complaints procedure, and 15 dissatisfied. However, those who were broadly satisfied still felt that there was the possibility to improve aspects of the procedure, and relatively few of our interviews were completely satisfied with their complaint journey from start to end. As such, throughout the research we have outlined elements of best practice and highlighted specific cases of good complaint handling, where at least one step in the process was considered highly satisfactory by the complainant.

1.1.3 The second part of the research was an investigation as to why people make a complaint to the Legal Ombudsman without first making a formal complaint to their solicitor or waiting for the eight week period for a solicitor to respond - classified as premature complaints. The rationale for this was that since the beginning of October 2010, the Legal Ombudsman have received over 56,000 complaints. Within this number, the Legal Ombudsman has received a high number of enquiries from people wanting to make a complaint, but were in

fact premature complainants. An online survey of 1,010 premature complainants was undertaken. The sample came from contact details held by the Legal Ombudsman of all who had made a premature complaint in the previous two years and for whom an email address was collected.

- 1.1.4 This report builds upon previous research undertaken by YouGov on ‘First-tier Complaints Handling’¹ published in June 2011 and conducted on behalf of the Legal Services Board. This research looked at the behaviour of dissatisfied users of legal services and how they experienced the complaints handling process. This report found that there is a clear gap between what is expected to happen under the regulatory framework and what is actually happening. The report highlighted the low awareness consumer have of the complaints process. And one of the key messages from the research was that people can only make a complaint if they are fully aware that they have a right to make a complaint, they understand how to make it, and they know who to make the complaint to and when they should make it.
- 1.1.5 This research builds upon the LSB’s 2011 report by investigating the key drivers leading to complainants contacting the Legal Ombudsman prematurely or not at all and considers the implications that this has for legal service providers and the Legal Ombudsman in the complaint handling process. It will also identify and share learning on the factors that contribute to the successful resolution of complaints at the first tier.
- 1.1.6 A contextual point to this research is that not all complaints made against a legal service provider are justified. The two strands of research in this study have focussed on the views of legal service consumers and from their point of view they are aggrieved and consider there to be an issue with the service they received. The experience of the Legal Ombudsman shows that in many cases complaints about the service are not justified, or often the redress is relatively minor.

¹ First-tier Complaints Handling, June 2011. Available from:
http://www.legalservicesboard.org.uk/what_we_do/Research/Publications/pdf/final_report_for_lsb_ftch09_06_11.pdf

1.1.7 The scope of the research covered a range of legal services that consumers had accessed. Law firms provided the majority of these services and these organisations are mainly the focus of this research.

1.2 Key learning points

1.2.1 Although the two research studies focussed on different aspects of the complaints process, a key finding is that many of the same issues which cause people to complain about the legal service they receive are manifest in the complaints process itself. These issues and their implications are discussed in the combined summary below.

The complaints system is characterised by a reluctance to formally complain and a lack of knowledge of how to complain.

1.2.2 The research has shown that there is a lack of awareness of how the complaints process works. The distinction between what is a first-tier complaint² and what is a second-tier³ is not one that complainants generally make. People find the overall process confusing and often intimidating and there is a perception that the process is either stacked against them or that the law firm will do nothing about it.

1.2.3 There is a perceived inaccessibility surrounding the legal service market when things start to go wrong. The system needs transparency and greater accessibility and to adopt more widely some of the good practice lessons highlighted by the research. Inherent within the complaints system is a lack of confidence that the complaints process with a legal services provider will work objectively and a feeling that to complain will disadvantage the consumer.

1.2.4 Coupled with this confusion is a reluctance from many to make a formal complaint. Crucially, the complaints process is almost always secondary to the effective resolution of the original legal case, in the eyes of the complainant. Many of our interviewees would (and did) sacrifice full resolution to their complaint if it increased their chances of a swift and

² A first-tier complaint is one that is made to the law firm by the consumer.

³ A second-tier complaint is one that is referred onto the Legal Ombudsman having already been through the law firm.

satisfactory result in the initial legal case. Certain individuals ‘dropped’ their complaint once the case was resolved, because they had achieved their primary objective – and the secondary objective of completing a formal complaint became far less important. Others felt that the ‘emotional effort’ of maintaining a complaint once the case had closed was too much and too uncertain in outcome. In these instances customers felt that the matter was closed but not necessarily satisfactorily resolved, and better support and clarity around the complaints process could help overcome this concern.

- 1.2.5 The initial process of complaining varies – with many participants making a softer rather than a formal complaint as the first step of the process. There are a number of reasons for ‘softer’ complaints – typically not wanting to interfere with the case, concern about how to complain and uncertainty about ‘challenging’ a lawyer in a formal or official complaint process. In examples of good practice, legal service providers picked up on these softer cues and gave customers clear direction and acknowledgement that a complaint had been made and signposted what to do next.
- 1.2.6 Making a complaint is often a stressful and long process, which many see to be more like a battle than a process that works in their interests. Contacting the Legal Ombudsman prematurely is the start of the journey and after further pursuing their complaint with their legal services provider (unsatisfactorily), a third of people do not return to contact the Legal Ombudsman. Why is this? A sense of fatigue and disenchantment with their experience to date. Not all complaints can be dealt with to the customers’ satisfaction but it appears that for some the whole process can be made customer friendly and orientated.

A straightforward response and apology can appease

- 1.2.7 Two clear messages that arise from this research are that to resolve their complaint people want: some form of apology or acceptance of responsibility for failure on behalf of the legal service provider; and an expectation that the original legal issue and service that provoked the initial complaint could be resolved – preferably expediently.
- 1.2.8 There is a basic desire from consumers that they simply receive some form of apology, or at least recognition that the legal service provider had failed in some way to meet their

expectations of an adequate service. This recognition was often missing from the process, particularly if the complaint was not upheld.

1.2.9 There also appears to still be a significant barrier between consumers and legal services providers in the form of the language used in communications from legal service providers. We identified a number of examples of defensive responses or language used by legal service providers that can be interpreted as confrontational and threatening. Crucially, it is the language used in the response that creates the most significant barriers, either because it is difficult for the complainant to understand, or because it is seen to convey an intimidating tone.

1.2.10 Exacerbating this, is the difficulty many complainants have comprehending the precise details of much of this communication. There were many references in the research to 'legal jargon' – and this provoked one of two responses. Some became angry, and persistently asked for clarification. However, the more common response was to feel intimidated by the language, and acquiesce to the legal service providers requests (often dropping the complaint).

1.2.11 The action in response to this barrier between legal service providers and consumers is more than improving compliance with the rules of signposting and communication. It needs a more in-depth assessment of the cultural differences that underpin the barriers in the relationship.

Good complaint handling builds reputations and benefits legal services providers

1.2.12 Where good practice exists in complaints handling and the issue is effectively resolved people are likely to recommend the legal service provider and speak well of them, even withstanding the initial negative experience. This shows the real value in delivering customer focussed complaints handling that is effective: be this around the appropriateness of response for the type of complaint, speed of response, clarity of language and information, full details of the complaints process (if required), and a tone that is neutral and unemotional.

1.3 Key findings from First Tier Complaints Research

- 1.3.1 Examples where the complaints process has functioned well, and even improved the customer's impressions of the legal service begin where **the provider effectively tackled the nature of the complaint in their initial response**. These are typified by a speedy response to the initial complaint, a clear outline of the procedure to be followed and where necessary the involvement of another solicitor within the firm to act if instructions had not been followed. Responding in a way that is appropriate to the nature of the complaint was the first key issue in the satisfaction of the process.
- 1.3.2 It is also imperative that legal services **providers are flexible and recognise that not all issues need to be addressed through a formal complaints process**. The initial stage of the complaints process can be varied and uncertain in the minds of the complainant. It is not always clear at what point expressing dissatisfaction with the service provided becomes a complaint, and individuals use quite different methods and means to complain. There were many examples of consumers making a softer 'complaint' rather than a formal complaint as the first step of the process. In examples of good practice, legal service providers pick up on softer issues and respond clearly and decisively, not leaving the onus up to the participant to 'push through' to the next stage without guidance or acknowledgement. In addition a response in-tune with the complaint is also valued – for example those who submit a detailed complaint expect a detailed and considered reply.

1.4 Key findings from Premature Complaints Research

- 1.4.1 A lack of confidence that the law firm would resolve the complaint fairly was the most cited reason as to why people did not make a formal complaint to the law firm before contacting the Legal Ombudsman. Therefore, maybe unsurprisingly, **the main reason for contacting the Legal Ombudsman prematurely is that this is what people think they need to do to get the complaint resolved**. This in itself clearly shows the confusion around what is the correct process for dissatisfied consumers to follow.
- 1.4.2 There is also the need to bring clarity to the messages people receive from the Legal Ombudsman, as the next most cited reason (for contacting the Legal Ombudsman

prematurely) is that people read on the Legal Ombudsman website that the Legal Ombudsman resolves complaints against legal service providers.

- 1.4.3 There is then **a lack of understanding about where the Legal Ombudsman fits into the complaints process**. Many consumers were not aware that they could direct a complaint to a senior complaint handling partner at the firm, or that there was a complaints department within the firm they could contact. Although, within this scenario, when contacted (albeit prematurely) the Legal Ombudsman is seen as a respected source for impartial advice and guidance. People are appreciative of the value of contacting the Legal Ombudsman prematurely, in that this provided them with valuable information about the complaints process and helped them complain directly to their legal services provider.
- 1.4.4 There is however a conflict which arises through the perception that the Legal Ombudsman is seen as an 'honest broker' who potentially can bring sense and resolution to the process. Due to this, **expectations are that the Legal Ombudsman will 'do something' about the individual's case**. Often from the consumers' point of view 'doing something' is interpreted as dealing with the complaint or for the Legal Ombudsman to take the case on from the law firm, this can then cause a mismatch between consumers' expectations of what the Legal Ombudsman should do and the service they receive.