



THE FACULTY OFFICE

MoF response to LeO Scheme Rules Consultation - February 2022

The Faculty Office, on behalf of the Master of the Faculties, submits the following brief response to the Legal Ombudsman's (LeO) Scheme Rules Consultation of February 2022:

Q1 – Do you agree that there is merit in reducing the time limit for complaints to be brought to the Legal Ombudsman to one year from the date of the act/omission or date of awareness (whichever is the later)?

We agree that there is merit in reducing the time limit for complaints to be brought to the Legal Ombudsman as the current period of six years from the act/omission (or three years from the date of awareness) understandably creates challenges for LeO's investigators, as well as for complainants and service providers, to adequately investigate or provide detail of the circumstances surrounding the complaint. However, whilst we can see the attraction to LeO and, possibly, service providers of adopting a one year time limit we consider that this is too great a change and too short a period. A two year period from either the act/omission or the date of awareness of the act/omission would in our view represent a more proportionate reduction and an appropriate period to allow consumers to bring the complaint (whilst maintaining the requirement that this should be brought within six months of the service provider's response (if any) to the complaint).

Q2 – Do you agree that there is benefit in introducing a new Rule 2.11?

Yes. We agree that an initial tri-age mechanism for declining to accept a complaint for investigation at the earliest opportunity in the circumstances outlined in the consultation would ultimately benefit both complainants and service providers as well as LeO.

Q3 – Do you support the proposed amendments under Scheme Rule 5.7?

Yes. The proposals appear to be reasonable and proportionate.

Q4 – Do you have any concerns about the implications of the changes to Rule 5.7?

No.

Q5 – Do you support the intention to look at being able to widen the extent of the delegation of Ombudsman decision making powers?

Yes, provided that the staff to whom decision making powers might be delegated are provided with adequate training and support and that clear processes are in place to ensure that the ‘boundaries’ of any delegation are transparent and maintained.

Q6 – Do you support the proposal to limit the right to an Ombudsman decision where no substantive issues are raised in the case decision?

Yes. We can see the benefit of reducing duplication of time and expense where neither the claimant nor the service provider have raised any substantive issues in response to the investigator’s findings and/or case decision.

Q7 – What factors should an Ombudsman consider when deciding whether a decision is required?

Factors including, but not limited to:

- The seriousness of the matters complained about.
- The level of redress ordered – any sum over a pre-determined limit should have the formal backing of an Ombudsman decision.
- Whether a case is likely to have wider learning/insight implications or benefits for service providers (or a sub-set of them) more generally such that publication of a decision would be useful.
- Where the actions/omissions or behaviours of the service provider or the complainant through the complaint investigation process have been such that publication of the decision is warranted for the benefit of consumers.

Q8 – Are there any alternative ways in which the Legal Ombudsman could adjust the rules to achieve a reduction in the number of complaints going to a final Ombudsman decision?

We take the view that, wherever possible, a negotiated/mediated settlement agreed with the parties to any complaint is always the preferred outcome such that the relationship of trust and respect between the parties can be maintained or restored. We appreciate that by the time complaints have been escalated to LeO that ship will, in many cases, have already sailed; but where, on an initial review/tri-age of a complaint, a reviewer/investigator believes there remains scope for agreeing an acceptable outcome we believe that efforts to achieve that ought to be made before a case is remitted for formal investigation.

Q9 – Do you support a review of the case fees model with a view to implementing a model which better encourages early resolution of cases?

Yes. We agree that any steps which may be taken to encourage early resolution of cases, including a review of the case fees model, are to be welcomed.

Q10 – Do you support the proposals outlined in the additional changes? If not, please outline which one you do not support and your reasons why.

We support all of the proposals outlined in the additional changes which appear to us to be necessary, sensible and proportionate.

The Faculty Office

April 2022