





Meeting	OLC Board Meeting	Agenda Item No.	N/A 132.11
Date of meeting	24 April 2024	Time required	N/A
Title	Horizon Scan- April 2024		
Sponsor	Steve Pearson- Deputy Chief Ombudsman		
Status	OFFICIAL		
Executive summary			
The Board are asked to note the contents of the horizon scanning paper.			
Recommendation / action required			
Board is asked to note the update and analysis provided.			
Equality Diversity and Inclusion			
EDI implications	Yes		
Paper contains references to the LSB's Business Plan which includes EDI and access to justice as workstreams for 2024-25.			
Freedom of Information Act 2000 (Fol)			
Paragraph reference	Fol exemption and summary		
<i>Insert details</i>	N/A		

Horizon Scan- April 2024

1. Overview

Issue	Impact	This will affect...	Demand
Reforming the law of apologies in civil proceedings	Low	Potential complaints which are prevented because of an apology being issued.	
LSB to bring SSB Law into scope of Axiom Ince investigation	Low	Consumer protection	
Justice Select Committee letter to Lord Chancellor	Low	Future of regulatory of arrangements in legal services	
Ongoing court delays	Low	Access to justice	

2. Thematic Issues and news

Reforming the law of apologies in civil proceedings

The Government is currently consulting on reforms to legislation which aims to clarify existing law and encourage organisations to apologise to those who have been wronged. This is as a result of evidence suggesting organisations are reluctant to apologise because of concerns it may be interpreted by both the complainant and by insurers, as an admission of fault.

Section 2 of the Compensation Act 2006 already states an apology shall not of itself amount to an admission of negligence or breach of statutory duty, but the consultation goes on to say, *“almost 20 years on, there is little evidence this has encouraged businesses to use apologies more as form of reparation – leaving many victims without proper closure and a sense they are unable to move on with their lives.”*

The consultation proposals do not force an offer of an apology, and they also reserve the rights of either party to pursue further legal action even when an apology has or has not been offered.

LeO has always been clear about the power of an apology, whilst also making it clear that an apology is not an admission of fault. The guidance LeO publishes about putting things right is also clear about to be of value to a customer, an apology must be meaningful and sincere. An apology should, we would suggest, include the following elements: acknowledgement of the service failing; an acceptance of responsibility for the problem; an explanation for why the poor service happened; an expression of regret for any impact and a brief explanation of what action is being taken to prevent the same thing happening again.

LeO is therefore supportive of the role genuine apologies can play in dispute resolution therefore reducing the the potential for disagreements to escalate. Progress of any

amendments will be followed, and any key updates communicated to LeO Executive and OLC Board colleagues.

LSB review- SSB Law

In the January 2024 Horizon scan paper, an update was provided on the ongoing communication LeO is having with the Solicitors Regulation Authority (SRA) about clients who may be affected by the closures of both Axiom Ince and SSB Law. The external affairs team and ombudsman colleagues have been continuing to engage with the SRA in the last quarter, to ensure appropriate lines of communication are agreed and that clients are being signposted where there are issues of service.

In relation to SSB Law, the SRA is continuing its investigation to address whether clients were properly advised about the risks and benefits of after the event (ATE) insurance, what assessment was made of the cover that was provided to clients and whether risks were properly managed on claims when they arose. There are also ongoing discussions about protections for consumers and if there are gaps in public policy, how these can be fixed.

LSB investigation

In December 2023, the LSB announced an independent review of the SRA's regulatory actions in the lead up to the intervention of Axiom Ince. The LSB have now announced that it is bringing the SRA's regulatory actions prior to the firm collapsing into the scope of the Axiom investigation.

The LSB has said it believes that it is important to understand the regulatory events in relation to both firms and that earning from these cases will be vital for public and professional confidence. The LSB will report on the review into the events surrounding Axiom Ince in spring, as originally planned, and will publish the report in relation to SSB Law in the summer.

SRA review into consumer protection

In February 2024, the SRA announced a review of their overall approach to protecting consumers. This is following a number of high-profile cases such as Axiom Ince and SSB Law, where there has been a high level of consumer detriment.

The review focuses on two main areas: how to reduce the risk that something goes wrong at a regulated law firm that causes harm to consumers. The SRA will be looking at how they identify risks in the sector, monitor and approve firms, as well as their rules and controls around firm's holding client money.

Secondly, it will be looking at its compensation fund arrangements. Questions around the compensation fund range from understand how the fund should interact with firms insurance cover, through to whether the fund should cover all consumers, or ultimately whether there are more appropriate mechanisms to provide appropriate consumer protection.

As part of the project, the SRA will be carrying out research with consumers to understand their priorities, as well as engaging with consumer groups and the profession to identify the best approach to protecting consumers and serving the public interest over the long term.

LeO is engaged with the SRA as part of their review and is continuing to explore how it can provide insights from complaints, including through the misconduct referrals that are made, which can help inform the regulators assessment of consumer risk.

The OLC Board will be updated with any further updates that arise.

Update on Justice Committee- letter to Lord Chancellor

In November and December of 2023, the Justice Committee held two evidence sessions with professional bodies and regulators from across the legal sector, namely the Bar Council, Bar Standards Board, CILEX (Chartered Institute of Legal Executives), CILEx Regulation, the Law Society, SRA and Legal Services Board. The sessions sought to understand views on the current provision for the regulation of the profession.

Following the hearing, the Committee has written to the Lord Chancellor with a number of recommendations and conclusions, including stating that the rationale for re-examining the regulatory framework created by the Legal Services Act 2007 is growing stronger. The justice select committee has also called for a review of the Legal Services Board and suggested the Bar Standards Board needs greater independence from the Bar Council.

A full summary of the recommendations and can conclusions can be found [here](#).

Ongoing court delays update

Latest figures published by the Ministry of Justice has shown that court backlogs are continuing to build. Figures published in March 2024 showed that:

- the Crown Court backlog reached 67,573 by the end of December 2023, 8% higher than December 2022 (62,628 cases)
- 18,045 of those Crown Court cases have been outstanding for a year or more, including 6,523 which have been outstanding for two years or more
- the magistrates' court backlog increased by 7% on the previous quarter to 370,731 at the end of December 2023

Probate Registry and Land Registry delays are also ongoing and affecting service providers who cannot progress cases due to lengthy waits for applications to be processed. This continues to be an issue raised as part of complaints being brought to LeO.

Consultation responses and publications

LSB launch Business Plan

The LSB has published its plans for 2024-25 and is focused on 'ensuring regulation contributes fully to delivering legal services that better meet the needs of society'.

The plans also include developing their market surveillance and horizon scanning capabilities so that it can better anticipate and respond to future developments by detecting possible detriment and harm in their early stages.

Other workstreams for 2024/25, include:

- **Professional ethics and the rule of law:** we will seek to identify ways in which regulation can contribute to ensuring legal services meet the standards the public expect
- **Equality, diversity and inclusion:** we will set clear expectations for regulators on dismantling barriers to a diverse and inclusive legal services sector
- **Access to justice:** we will seek to ensure regulation plays a full part in improving access to the publicly funded justice system.

The full plans can be found [here](#).

Law Society consultation on practicing certificate increase

The Law Society has announced its plans to increase its share of the annual practicing certificate fee by 5%. The increase will help fund greater availability of and accessibility of resources and frontline member services. Feedback from the consultation held in 2023 also showed members also wanted the Law Society to do more to promote and champion the profession to the public and to Government.

There are cross overs with the ambition outlined by the OLC in its Strategy for LeO- in particular the focus applied to their first Strategic objective- “we will promote the value of the profession and provide a compelling member offer” which looks are its learning and insight offering and the practical support it can provide to the profession.

Further information on the proposed 5% increase and the link to the survey can be found [here](#).

3. Announcements and appointments

New Chair of the Legal Services Consumer Panel

The new Chair of the Legal Services Consumer Panel, Tom Hayhoe, will take up his role from 1 May 2024. Tom succeeds Sarah Chambers, whose term of office ends on 30 April 2024. Sarah has served two three-year terms as Chair since 1 May 2018.

Recruitment for a new Chair of the SRA Board

The SRA has begun the process to appoint a new Chair of the Board to replace Anna Bradley, whose term ends in December 2024. The new Chair of the Board will start in January 2025 for a period of 6 years.