



**LEGAL SERVICES
BOARD**

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Approved Regulators

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Dear Colleague

First-tier complaints handling

I am writing to update you on our progress with the general topics on first-tier complaints handling referred to in the letter from Legal Services Board (LSB) of 01 April 2010. In particular, the letter gives the final wording of the LSB's requirements under s112(2) of the Legal Services Act 2007 (the Act) and our guidance on the outcomes that we expect for consumers.

This letter also includes a first draft of some common categories for collecting complaints data for the purposes of approved regulator (AR) and LSB monitoring and invites your comment on these. It also sets out at a high level the approach we are likely to take going forward in reviewing your progress on regulating first-tier complaints handling.

Signposting consumers' rights of complaint

As you know, section 112(2) of the Act confers discretion on the LSB to specify requirements that ARs regulatory arrangements must satisfy in relation to complaints procedures for authorised persons (APs). As we explained in our letter of 30 November we consider it appropriate to introduce a specific requirement under s112(2) of the Act to ensure that APs make it clear to consumers that they have the right to complain and how to make a complaint (signposting requirements).

As a result of the consultation process we have made some adjustment to the wording of the signposting requirements. We have also decided that it is appropriate for the signposting requirements to be accompanied by guidance to clarify our expectations. However, it is for each AR to ensure that the LSB's

requirements are included in their regulatory arrangements and how to monitor and enforce them.

Timing of introduction of the signposting requirements

We consider that the signposting requirements should be implemented by ARs before the Legal Ombudsman is operational, but as close as reasonably possible to the go live date, currently planned for October. We understand that there will be an announcement from the Legal Ombudsman shortly regarding the precise date. Equally, we also expect ARs to have procedures in place that aim to achieve the outcomes in the guidance by the time the Legal Ombudsman commences.

First-tier complaints handling outcomes - guidance

The final wording of the first-tier complaints handling outcomes have been developed taking account of feedback received through our engagement with ARs and others on the initial draft outcomes. You will note that the initial set of draft outcomes has been reduced to two higher level outcomes, and that the guidance incorporates other aspects of the original proposal.

It is for each AR to decide the extent to which they use the outcomes and guidance to inform their approach to the regulation of first-tier complaints handling. However, the LSB will have regard to the extent to which each AR's activities are consistent with the guidance when it reviews how each AR is regulating first-tier complaints. This will, in turn, help to inform our view about whether it is necessary to be more prescriptive about our requirements.

Rule approval process

The signposting requirements have been specified by the LSB under the Act and will consequently require a change to your regulatory arrangements. If you inform the first-tier complaints team at the LSB of your proposed wording and they consider that this is sufficient to meet the signposting requirements it is likely that we will exempt the modifications required from the LSB's rule change application process.

Similarly, if you need to make changes to your regulatory arrangements to comply with the requirements of s112(1) of the Act, we may also be willing to exempt such changes from the LSB's rule change application process. Though equally we would only be able to confirm this once you have submitted your proposals to the LSB for consideration.

Common categories for data collection

Following the consultation, we consider that it would be appropriate for ARs and the LSB to develop a common set of categories for data collection to establish clear expectations for legal service providers about recording information and to enable ARs to ensure that they have a targeted, proportionate and accountable approach to assessing complaints handling effectiveness.

We have therefore undertaken some limited research¹ into current regulatory practice in this area and would welcome your views on whether the following categories of data are suitable:

Common categories for data collection

1. Did the approved person (AP) have an effective complaints handling process and culture (did it have systems and procedures in place to record complaints and provide them with due consideration and quality assurance)?
2. Did the AP respond promptly and keep to timescales?
3. Did the AP make the client aware of their rights of complaint in accordance with the signposting requirements?
4. Was there a written explanation provided for the conclusions that were reached by the AP at the completion of the complaint process?
5. What redress or remedial action was offered and was it promptly provided?

The list is by no means exhaustive but we do think it represents a minimum requirement for information. While it is for individual ARs to determine their approach to frequency with which they collect data, they must be able to effectively and efficiently identify good practice and be able to address systemic and specific issues in first-tier complaints handling.

¹ The documents we examined are:
http://www.fsa.gov.uk/pages/Library/Other_publications/complaint_handling/index.shtml;
Customer satisfaction – Guidelines for complaints handling in organisations, BS ISO 10002:2004;
http://www.ofcom.org.uk/consult/condocs/complaints_procedures/adr_condoc.pdf

Publication and decision document

We intend to publish the signposting requirements and guidance document (attached) on our website next week. We will also publish a document summarising the issues that were raised by ARs and stakeholders throughout the first-tier complaints handling consultation process and why and how we responded to them in the way we have.

Please treat the signposting requirements and guidance document attached as provided on a confidential basis until we have published it.

Review of ARs' approaches to regulating complaint procedures

As we explained in our letter of 01 April, we intend to review your progress against your action plan in October/November. We will discuss with you in more detail our approach to this review but at this stage it seems that it will be appropriate to also include consideration of your implementation of the LSB's requirements and guidance as well as your approach to monitoring.

Please do not hesitate to contact Lucas Ford on 020 7271 0093 if you wish to discuss any of the issues in this letter.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Chris Kenny', with a long horizontal stroke extending to the right and a vertical line at the end.

Chris Kenny
Chief Executive Officer

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