



Chapter 5

Legal Services Act 2007

Key points

- Legal Services Board (LSB) and Office for Legal Complaints (OLC) can deliver a fresh start for consumers and profession
- Detail of the OLC Scheme Rules – vital to get this right
- OLC – a new ombudsman scheme – this is a positive for the consumer

Additional background about the Legal Services Act:

- * Law Society will lose complaint handling.
- * Between now and LCS closure must ensure effective planning for minimal legacy work to OLC.

* Risk of regulatory gap as LSB powers over OLC and not LCS.

* OLC must not inherit problems or backlogs from LCS.

5. Legal Services Act 2007

Legal Services Act 2007

“It has been a long and sometimes difficult road, but finally the reforms can start to become a reality for the consumer and for the legal profession. This new Act brings in much heralded changes to how legal services will be delivered and regulated and how complaints will be handled. As a contributor to Sir David Clementi’s review and an enthusiast for the blueprint he set out, I am pleased to see the changes become law.”

This statement is taken from the Commissioner’s press release issued on 31 October 2007, the day following the Legal Services Act 2007 receiving its Royal Assent. The Commissioner welcomed the new legislation and now awaits the setting up of the new bodies created by the Act: the Legal Services Board (LSB) and the Office for Legal Complaints (OLC).

The Road to the Act

During development of the legislation, the Commissioner contributed her views to Government on how the Act could **preserve and enhance the rights of consumers of legal services as well as those in the legal profession**. As Ombudsman and Commissioner she published a Special Report in June 2007²⁸ that set out her perspective on the legal reforms as they stood at that stage.

The Commissioner was able to bring to the debate her knowledge and understanding of the legal services market, regulation, complaints handling and the consumer perspective. This was alongside targeted proposals to improve the legislation on behalf of the consumer in conjunction with organisations such as Which? and the National Consumer Council.

The Ombudsman and Commissioner’s influence contributed to a number of consumer focused developments incorporated into the eventual Act including:

- The requirement for the role of Chair of the Legal Services Board to always be held by a lay person.
- The Office for Legal Complaints will be an Ombudsman scheme.
- The increased levels of compensation that the OLC will be able to pay (set at £30,000).
- The ability for the OLC to take enforcement action for payment of compensation on behalf of the complainant.

28. *Legal Services Reform – A perspective, published by the Legal Services Ombudsman and Legal Services Complaints Commissioner on 26 June 2007*

The Commissioner believes that despite its difficult birth, the Legal Services Act 2007 has the ability to deliver a fresh start for consumers and providers of legal services. However, the Commissioner has noted that the Act leaves much of the detail of the LSB and OLC to be developed within their Scheme Rules. She therefore maintains that the Scheme Rules must ensure the legislation delivers on its potential.

During the passage of the legal reforms legislation, it became clear that enshrining in the Act “light touch” regulation by the LSB was one of the key aims of the professional bodies. While this has indeed been included in the Act, it is nevertheless vital that the LSB has sufficient resources and scope within its own Rules and policies to perform an effective regulatory role when required. The profession as well as the consumer would suffer if the LSB could not act quickly or decisively enough to prevent widespread detriment.

A new ombudsman scheme for legal complaints handling

It is good news for the consumer and the legal profession that the OLC will be a new and independent legal complaints handling organisation with the removal of complaints handling from the legal professional bodies. The OLC ombudsman scheme will need to ensure it meets the British and Irish Ombudsman Association (BIOA) criteria²⁹ and embeds its principles of good complaints handling.

The Commissioner looks forward to working with the Chairs and Boards of the LSB and OLC to ensure that all the knowledge and expertise of complaints handling gained by OLSCC is made available to the new organisations.

What happens now?

The Commissioner remains committed to making improvements to the current system of complaints handling. This is vital, as the LSB’s oversight and scrutiny role over complaints relates to the new OLC and not the current LCS. Members of the legal services profession and consumers require the current improvements to be maintained and enhanced in order for the OLC to have the best possible start. The reputation of the OLC could be damaged if at the outset, it is beset by problems with backlogs of legacy work inherited from LCS.

29. For the full BIOA criteria see www.bioa.org.uk

* BIOA Criteria -
Independence,
Fairness,
Effectiveness,
Public
Accountability

Chapter 5 checklist:

✓ * Distribute for feedback

✓ * Check dates

✓ * Insert footnote 28

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✓ * Confirm quote (chapter 5):

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Phone message: 11:25am

Commissioner rang, call back a.s.a.p. ✓