

Legal Complaints Service

Response paper

The provision of solicitors' telephone services for complaints handling provided by the Legal Complaints Service

May 2008

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Executive summary & conclusions

This report summarises the responses received from the consultation 'The provision of solicitors' telephone services for complaints handling provided by the Legal Complaints Service, carried out between 26 September 2007 and 8 January 2008.

The consultation aimed to obtain views on how the Legal Complaints Service can assist in reducing complaints about poor service by solicitors, and improve solicitors' in-house complaints handling. The Legal Complaints Service sought the views of solicitors (the profession) as well as consumers of legal services (solicitor's customers), organisations that have an interest in the legal profession, consumer bodies, regulatory bodies and campaigning bodies, with a view to better understanding the services it could provide to maximise the positive impact to complaints handling and complaints resolution by solicitors.

The results of this consultation show that there is a clear need for a telephone advice service for solicitors, and that a majority of our stakeholders who responded agree that it is appropriate for such a service to be delivered by the Legal Complaints Service. We do however acknowledge that there was a significant minority of respondents who argue that solicitor advice services might be delivered by other organisations.

The small number of responses that we received to this consultation and the current low levels of demand for Lawyerline do not suggest that there is currently a need to expand the service. There is, however, a clear benefit to be gained in raising the profile of Lawyerline and making the service more transparent and understandable for solicitors. Greater awareness may lead to an increase in calls and it is acknowledged that should this occur further consideration of capacity would be required.

There are a number of suggestions for improvement to the *Lawyerline* service that deserve consideration. These include all suggestions noted under Questions 5 and 13 below and the suggestion made by the Law Society that better use could be made of trends emerging in referrals to the service. Further suggestions for how the Legal Complaints Service could assist solicitors in complaints handling were also received. We are pleased to note that the majority of these suggestions have already been progressed by the Legal Complaints Service during year one of our three year Improvement Agenda. We are listening to the profession and there is much more that will be done to assist solicitors in improving their client care and complaint handling practices as we progress through our second and third years of the Improvement Agenda.

Consultation background

This report summarises the responses received from the consultation '*The provision of solicitors' telephone services for complaints handling provided by the Legal Complaints Service*', carried out between 26 September 2007 and 8 January 2008.

The consultation process

The consultation aimed to obtain views on how the Legal Complaints Service can assist in reducing complaints about poor service by solicitors, and improve solicitors' in-house complaints handling.

The Legal Complaints Service sought the views of solicitors (the profession) as well as consumers of legal services (solicitor's customers), organisations that have an interest in the legal profession, consumer bodies, regulatory bodies and campaigning bodies, with a view to better understanding the services it could provide to maximise the positive impact to complaints handling and complaints resolution by solicitors.

This would enable an informed decision regarding current and future need for a solicitors' telephone service that supports the prevention of and / or the handling of complaints. If there is a need, we wish to determine the future shape of such a service that best fits the requirements of our stakeholders.

It was imperative to the Legal Complaints Service that a broad section of stakeholders were alerted to the consultation and offered the opportunity to respond. To this end, a number of advertising methods were utilised.

- The consultation paper was available on the Legal Complaints Service website throughout the consultation period.

The consultation paper on the website during September 2007 to January 2008 was accessed as follows:

No. of people accessing to the consultation page	595
No. of people downloading the consultation document	121
No. of people downloading the summary of questions	83
No. of people downloading the 'About you' document	39

- It was also advertised in the following publications:

Gazette	27 September 2007
Managing for Success	October 2007
Bristol Briefing (Bristol Law Society)	October 2007
Solicitors Regulation Authority Update	3 October 2007
Gazette	8 November 2007

- Copies of the consultation were posted directly to key stakeholder organisations (see Appendix 1)

- On 1 and 2 October 2007, 150 copies of the consultation were handed to solicitors who visited the Legal Complaints Service stand at the Law London fair at Olympia.
- During November and December the Legal Complaints Service sent a copy of the consultation paper to approximately 400 solicitors who had just concluded dealing with a complaint about their firm where we had become involved.
- In December, follow-up telephone calls were made to contact a sample of key stakeholder organisations in order to establish whether they would be responding to the consultation and for their feedback.

Profile of respondents to the consultation

Solicitors / Firms	6	38%
Local Law Societies	5	31%
Representative bodies	4	25%
LCS employees	1	6%
Consumer bodies	0	0%
Regulatory bodies	0	0%
Campaigning bodies	0	0%
Consumers	0	0%

Total responses 16

A copy of this response paper has been sent directly to those who responded to the consultation, the majority of whom have agreed to be listed as respondents at appendix 1.

It is important to the Legal Complaints Service that all consultations undertaken are transparent and accessible. To ensure these criteria were met, representatives of consumer interests were consulted and, though the content was not aimed specifically at consumers, the consultation paper was made available on the Legal Complaints Service website where it could be viewed and / or completed by both solicitors and consumers. A number of key consumer stakeholder organisations received a follow-up telephone call in December and, where contact was made, the general feeling expressed by them was that this particular consultation required solicitor feedback and was not of immediate concern to those representing consumers.

As noted above the Legal Complaints Service undertook a number of initiatives to ensure that individual solicitors and their firms had the opportunity to respond to this consultation. It is therefore to be regretted that only six solicitors/firms took the opportunity to tell us what they think. It is also to be regretted that we did not receive the opinions of other key stakeholders such as the Legal Services Complaints Commissioner.

We are nevertheless grateful to all those solicitors who took the time to respond and are pleased to note that nine of the respondents were bodies that represent solicitors, including the Law Society, the body that is responsible for representing the interests of all solicitors in England and Wales. Whilst there were few responses in total we do, however, consider that those that we did receive are sufficient to enable us to draw some meaningful conclusions from the consultation process.

The consultation questionnaire

A questionnaire comprising fourteen questions allowing free format responses was selected as the most suitable approach to obtaining a comprehensive understanding of views relating to solicitor's telephone services. The format requires analysis to be a combination of quantitative and qualitative information to ensure the breadth of views was captured. The consultation questions lead to three main options regarding the provision of Legal Complaints Service solicitor telephone services. These options were:

Option 1 – Discontinue all Legal Complaints Service solicitor telephone services

Option 2 – Retain the Legal Complaints Service solicitor *Lawyerline* service in its current form

Option 3 – Adapt and develop telephone services for solicitors

Analysis of responses

This report details the findings from the consultation. It includes analysis of both the completed questionnaires and the written, free format submissions received.

Results are depicted in tabular format with illustrative quotations to indicate views expressed. As advised in the 'About You' document, these selected quotations have not been attributed, with one exception. As the Law Society has published its response to the consultation on its website, relevant quotations have been attributed to this representative body. Should you require further information on their comments, please refer to the Law Society website for their full response. Where permission has been provided, respondents to the consultation have been identified in Appendix 1.

Consultation questions with response information

Question 1

Thinking generally, is there a need for a telephone service specifically for solicitors, which supports the prevention of and/or handling of complaints? Please explain your views.

Responded to question	94% (15)
Answered 'Yes'	100% (15)
Answered 'No'	0%

The response to this question was emphatic; solicitors require advice regarding the prevention and handling of complaints and a telephone service is deemed a fast and effective method of providing this support. Additional comments included:

'Whilst written guidance is always useful, the ability to pick up the 'phone and talk through issues is invaluable...'

'Only a small proportion of firms have any experience of receiving a complaint and any guidance is likely to aid the satisfactory resolution of the complaint.'

'Anything that can be done to assist in solving a problem before it escalates into a complaint, or in resolving a complaint smoothly, has to be for the benefit of both solicitors and their clients.'

The Law Society very helpfully conducted their own short poll of solicitors as part of their response to the consultation: This found that out of the 116 solicitors polled 79% of them felt that a telephone advice service on complaints handling was a service their firm may find useful.

Question 2

Is it the role of the Legal Complaints Service to provide such a service? Please explain your views.

Responded to question	88% (14)
Answered 'Yes'	57% (8)
Answered 'No'	29% (4)
Answered 'Maybe'	14% (2)

Twice as many respondents were clear that they deemed the Legal Complaints Service to have the expertise to provide complaints handling guidance to solicitors. Respondents who regarded this to be the role of another body cited the Law Society or the Solicitors Regulation Authority, or an independent body funded by both these organisations. Local law societies were another suggested provider of such services.

The key concern appeared to be that of independence. Two respondents had no strong view over who should provide the service, only that it should be available.

Comments received include:

'This is a different function to the SRA (regulatory) and The Law Society (representative)...'

'Further understanding the LCS's approach to complaint handling through its advice services may assist solicitors in making their complaints handling and procedures more robust'

'...it may well not be possible for the Legal Complaints Service to provide to solicitors seeking advice a service which is truly impartial, or at least free of any conflict, whether actual or perceived.'

Question 3

What do you believe are the advantages and disadvantages of the Legal Complaints Service providing a dedicated telephone advice service for solicitors? Please explain your views.

Responded to question 75% (12)

Of the **advantages** provided by respondents, the most frequently mentioned advantage was the Legal Complaints Service's expertise in complaints handling that would assist solicitors.

Of the **disadvantages** provided by respondents, the most common concern centred around concerns over impartiality, independence and confidentiality, and a possible conflict of interest given the consumer orientation of the Legal Complaints Service.

Question 4

If you do not think the Legal Complaints Service should be providing this service, which organisation should be doing so? Please explain your views.

Of the 43% who were categorised as answering 'No' or 'Maybe' to Question 2, 60% regarded The Law Society as the appropriate body to provide complaints handling support. Other suggestions for solicitors' telephone service provision were:

- The Law Society and Solicitors Regulation Authority
- The Law Society and Local Law Societies
- An independent body funded by The Law Society and Solicitors Regulation Authority

Some respondents who advised that the service should remain with the Legal Complaints Service also suggested that the support and involvement of Local Law Societies in the handling and prevention of complaints would be beneficial.

The Law Society response to this section advises that *'The Law Society would like to work with the LCS to ensure that both organisations provide complimentary and consistent assistance to solicitors to enhance client services and complaints handling'*. The Legal Complaints Service is pleased to have initiated such work within the scope of its Improvement Agenda, Objective 3 – Informing the Profession. Please see additional information on this in Question 5 below.

Question 5

Apart from a telephone service, what other forms of support could the Legal Complaints Service offer solicitors to help prevent and reduce the numbers of complaints?

The following is a summary of the ideas for support put forward by respondents:

- Training and education; on-line and face-to-face
- Fact sheets; complaints handling and prevention
- Self audit toolkits
- Compulsory complaints handling and prevention CPD course every 3 years
- Web page with downloads on complaints handling and prevention
- Advertise the *Lawyerline* service better
- Seminars on complaints handling and prevention
- Information for solicitors and FAQs on the Legal Complaints Service website
- Pro-forma letters with complaints process /
- Consistent, accurate and meaningful information
- Written confidential service
- On-line complaints answering service
- Access to caseworkers to discuss resolution
- Better quality staff

The Legal Complaints Service is pleased to have initiated improvements in many of the areas noted above within the scope of its Improvement Agenda, Objective 3 – “*Informing the Profession*”. The work undertaken during 2007/2008 has included:

- The redevelopment of the LCS website, resulting in the addition of information for solicitors relating to support and guidance
- Broader ongoing advertising of *Lawyerline*
- Publishing trend intelligence on complaints in legal publications
- Regular seminars have been held across the country with local Law Societies
- Attendance at Law London in October 2007 and March 2008, meeting face-to-face with the profession, raising awareness and the profile of complaints handling, and seeking solicitor’s views on how we can develop our services to assist the profession.

This partnership focus will be continued into 2008/9 as the Improvement Agenda objectives are refined to meet the continuing challenge of providing a high quality complaints handling service. Improvements undertaken in 2007/8 have provided a solid foundation for future work over the next 12 months which includes initiatives that will be developed under the following five headings:

- Gathering solicitors’ service feedback
- Improving solicitors’ access to our services
- Publishing solicitors’ Guides
- Client Care Awards
- Information packs, education & training

These initiatives will consider development of many of the suggestions made above by respondents to the consultation.

Question 6

Is the current remit of *Lawyerline* appropriate?

Responded to question	88% (14)
Opening hours too short	50% (7)
Insufficient caseworkers	36% (5)
Lack of advertising	36% (5)
Remit acceptable but from a different provider	14% (2)
No additional requirements	14% (2)
Concerns regarding independence	7% (1)

In relation to the first three issues raised above we wish to draw attention to the following matters:

Opening hours too short: Accessibility to the *Lawyerline* service is of key importance to respondents. We can now confirm that the service is available 9am to 5pm Monday to Friday. We regret that the opening hours of the service as advised in the consultation paper were not correct and that cover is arranged to ensure that the service operates full time. We apologise for any confusion this may have caused.

Insufficient caseworkers: The service is manned by one caseworker who has primary responsibility for its running. This caseworker receives support from other caseworkers to ensure that when he is unavailable the service remains manned. The service is therefore manned to ensure sufficient cover throughout the week. Currently *Lawyerline* continues to receive around 30 calls a week and therefore current demands are being met in terms capacity to take calls.

Lack of advertising: We acknowledge this as an issue. Advertising of the *Lawyerline* service has been reviewed during 2007/2008 as part of Objective 3 of the Legal Complaints Service Improvement Agenda. The service is now advertised on the Legal Complaints Service website. See Question 13 below for further consideration on this point.

Question 7

If you have used *Lawyerline* in the past, please comment on your experience of the service.

Very little direct feedback was received in response to this question. One solicitor respondent expressed a great degree of dissatisfaction with *Lawyerline*. The Law Society's own short poll of solicitors as part of their response to the consultation provided the following information:

116 solicitors polled	
45 solicitors had heard of <i>Lawyerline</i>	38%
11 solicitors had used the service	25%
9 of the 11 solicitors who had used the service found it useful	82%

Question 8

Is it appropriate for the Legal Complaints Service to provide general advice regarding best practice in client care and complaints handling and prevention?

Responded to question	81% (13)
Answered 'Yes'	100% (13)
Answered 'No'	0%

Comments received include:

'Yes. This pro-activity should assist in the reduction of the number of complaints arising.'

'Yes, provided 'best practice' does not become the minimum standard'

'Yes. It must be beneficial to draw on experience gained from handling complaints on behalf of the public...'

The Law Society's view is *'...that it is appropriate for the LCS as a complaints handling agency to provide general advice on client care and complaints handling.'* The distinction is made between good and best practice with the comment that *'While many individual solicitors and firms may seek to achieve best practice in complaints service and complaint handling, which goes above and beyond the requirements of Rule 2, the LCS should not gold plate compliance with Rule 2. As such general advice provided by the LCS should be targeted at good practice which enables all solicitors and all firms to comply with Rule 2'.*

Question 9

Is it appropriate for the Legal Complaints Service to provide advice on specific issues where a complaint is being dealt with under a firm's internal complaints procedure?

Responded to question	81% (13)
Answered 'Yes'	69% (9)
Answered 'No'	23% (3)
Unclear	8% (1)

Comments received include:

'Care would have to be taken however that appropriate measures were in place to ensure confidentiality..'

'Any advice given would supplement the firm's own procedure and could help bring objectivity and impartiality to the operation of that procedure'.

'Yes – stops complaint escalation and encourages solicitors to deal more efficiently and effectively with complaints '

'This might prejudice later involvement with the LCS'

The Law Society said, *"general advice provided while the firm is seeking to resolve a complaint is likely to be particularly useful"*

Question 10

Is it appropriate that a telephone service should give advice on specific complaints that are already being investigated by the Legal Complaints Service?

Responded to question	81% (13)
Answered 'Yes'	39% (5)
Answered 'No'	61% (8)

Comments received include:

"Yes. Advice is offered to complainants. If the Legal Complaints Service is to be impartial, advice must also be available to solicitors."

"Yes...it would help to resolve complaints faster – this in both the client and solicitor's best interest."

"No. This could lead to members of the public losing confidence in the process as a result of perceived bias or preferential treatment towards solicitors by the LCS."

"Not if being investigated unless it is merely on procedure, etc."

The Law Society advised that it *'does not consider it appropriate for a LCS staff member not involved in dealing with a matter to be providing advice to either party once a formal complaint has been made to the LCS'*.

In relation to this point it is important to note that the current *Lawyerline* service will not accept calls where identifiable complaints that are already being handled by the Legal Complaints Service are discussed. The *Lawyerline* caseworker will give general and hypothetical advice only.

Question 11

Is it appropriate for confidentiality to be guaranteed to solicitors who raise issues via a Legal Complaints Service telephone service?

Responded to question	81% (13)
Answered 'Yes'	100% (13)
Answered 'No'	0%

Comments received include:

“Yes, otherwise the service will not be used.”

“Yes, not only appropriate but essential.”

“Yes – otherwise issues will not be raised when to do so could have led to early resolution.”

The Law Society advised *“The maintenance of confidentiality for all callers, whether they are potential complainants or solicitors, is essential for the effective running of the telephone help line.”*

The Law Society also goes on to make the point that *“ Maintaining confidentiality would ... not prevent the recording and publication of trend data from the calls received. Such trend data would highlight areas where solicitors and clients request the most assistance, enabling more targeted assistance through other capacity development methods”*

Question 12

Is there anything else that a dedicated Legal Complaints Service telephone service should or should not provide solicitors?

Responded to question 50% (8)

Responses in this section generally referred back to comments and suggestions within previous answers.

Question 13

Which of these three options is your overall preference?

Option 1 – Discontinue all Legal Complaints Service solicitor telephone services

Option 2 – Retain the Legal Complaints Service solicitor *Lawyerline* service in its current form

Option 3 – Adapt and develop telephone services for solicitors

Please select the one option you believe provides the best solution and please explain your choice.

Responded to question	94% (15)
Option 3	53% (8)
Option 2	40% (6)
Option 1	7% (1)

Option 3 was the most popular option stated by respondents. However, if these results are to be meaningful, a degree of clarification is required. The reasons are as follows:

Two of the respondents who selected **Option 3** stated that they wished to see an independent body deliver the help line, rather than the Legal Complaints Service. Although we have noted these comments, for the purposes of this specific question, respondents should have cited **Option 1** and not **Option 3** as their preferred choice.

A further three respondents who selected **Option 3** stated that their reason for selecting this option was that they wished to see the service developed to operate on a full time basis, rather than with part time hours. As noted above in Question 6, the hours of *Lawyerline* are in fact full time. It may, therefore, be assumed that these three respondents would have chosen **Option 2** if the correct information regarding opening hours had been made available to them in the consultation paper.

Based on these assumptions, the adjusted responses show:

Responded to question	94%	(15)
Option 2	60%	(9)
Option 3	20%	(3)
Option 1	20%	(3)

On this basis the favoured option by some margin is to keep the remit of *Lawyerline* as it currently stands without significant expansion or amendment to its services.

There were, nevertheless, six suggestions made for development of the *Lawyerline* service by respondents who chose both **Option 2** and **Option 3**. These were:

- 1) Broaden the pool of caseworkers who operate *Lawyerline* in order to bring a greater range of experience to the service.
- 2) Introduce a letter and/or online service so written enquiries can be catered for more readily than is currently possible.
- 3) Improve awareness of *Lawyerline* by wider advertising of the service. Many respondents felt that the low take up of the service is probably simply a reflection of the fact that most solicitors do not know the service exists, or how to access the service. Tied in with this suggestion is an acknowledgement that if wider awareness leads to an increase in referrals to the service, then existing staffing arrangements for the service may prove insufficient.
- 4) Improve the transparency of the service by advertising clearer information about the service and better guidance regarding what *Lawyerline* is for, how and when it can help, and more information as to how the service works.
- 5) The Law Society argues that *Lawyerline* could become a function of the existing Legal Complaints Service customer help line. They suggest that this would reduce

duplication and may help to address any perception of bias that could otherwise be attached to a solicitor only service.

- 6) Collate, analyse and feedback on trend data gathered from calls made to the *Lawyerline* service. This information could be publicised to inform the profession of trends and might also be used by LCS to tailor its services to better meet the needs of the profession in their efforts to improve client care and complaint handling.

Question 14

Is there anything else you would like to add concerning the role of Legal Complaints Service in assisting solicitors reduce complaints and in promoting good practice?

There were no responses to this question that dealt with issues not already covered elsewhere in responses.

Next steps

LCS will be reviewing the *Lawyerline* service in the context of this response paper and will make appropriate adjustments to the service to take account of the views expressed. If you have any questions, enquiries or feedback about the way in which Lawyerline is developed contact: consultations@legalcomplaints.org.uk

Appendix 1

Published list of respondents to the consultation

1. The Law Society of England and Wales
2. Devon and Somerset Law Society
3. Liverpool Law Society
4. East Anglia Region Local Law Societies
5. Association of Solicitors and Investment Managers
6. Junior Lawyers Division
7. Russell Jones and Walker
8. DWT Legal
9. Painters Solicitors
10. Colemans Solicitors

Please note that a further six respondents specified that their identity should not be published in this response paper or did not give their consent to publication.

Appendix 2

Key stakeholders who were invited to respond to the consultation

1. Citizens Advice Bureau
2. The Immigration Services Commissioner
3. The Law Society (Representation)
4. The Legal Services Complaints Commissioner
5. The Legal Services Ombudsman
6. National Consumer Council
7. Representative bodies of the solicitor's profession of England and Wales:

Association of Lawyers for Children
Association of Personal Injury Lawyers
Association of Solicitor and Investment Managers
Association of Women Solicitors
Black Solicitors Network
Criminal Law Solicitors Association
Financial Services Lawyers Association
Group for Solicitors with Disabilities
LawWorks
Legal Practice Management Association
Local Law Societies of England and Wales (29 societies in total)
Probate Section
Resolution - first for family law
SAHCA (Solicitors Association of Higher Court Advocates)
Society for Computers and Law
Society of Asian Lawyers
Society of Visually Impaired Lawyers
Sole Practitioners Group
Solicitors Benevolent Association
Solicitors in Local Government Group
Trainee Solicitors Group
UK Environmental Law Association
Young Solicitors Group

8. The Solicitors Regulation Authority
9. Which?