



Birmingham
Law Society

The Legal Ombudsman's case fee and funding

Law Society discussion paper

May 2015

July 2015

Q1 N/A

Q2 (a) Yes. The polluter pays principle has to be the correct approach in achieving a broadly fair outcome for the profession as a whole. It also encourages firms to employ their internal complaints procedure to achieve an early resolution to a complaint thus not only avoiding the fee but also the attendant publicity.

(b) The case free system might have been attractive to some but is not justifiable under the guiding principle. There are better ways of achieving a more equitable system.

(c) There are clearly areas of work (and some categories of clients) which are more likely to attract complaints. However, to seek a blanket exemption for practitioners operating in these areas goes too far and might give the wrong impression to the public at large. The one exception that might be justified is in relation to pro bono work.

(d) The one off £400 fee is not an insignificant amount. A staged or stepped fee along the lines suggested is fairer. If the process is extended by the complainant's intransigence, LeO should be able to exercise discretion by reducing the fee to be paid.

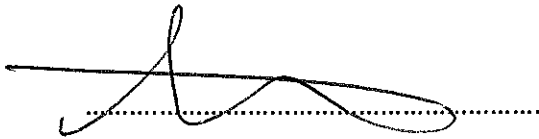
Q3 The Society has not been able to obtain evidence in the time available. The £400 fee is probably not untoward if the matter reaches an ombudsman for determination subject to what we have said in response to Q2(d) above. The £100 fee at the start of the process seems reasonable. We are unable to assist further.

Q4 Yes. Were a fee to be charged the perception would be that a barrier was being placed in the way of complainants who might have quite legitimate cause for complaint but who, as the paper points out, would be expected to incur additional expenditure to obtain redress for poor service. Further a fee would be difficult and expensive to collect. It would be much better for LeO to be stricter with vexatious complainants and weed out frivolous complaints.

Q5 The Society has not been able to obtain evidence via consultation in the time available. The Society is therefore unable to comment.

Q6 There is a widely held perception that LeO is biased towards complainants and that there should be a more balanced in the approach to both sides. Further there can be unrealistic time limits imposed on solicitors to respond to LeO e.g. 3 days just before Xmas, or between Xmas and New Year – very draconian.

TLC needs to keep an eye on the LeO's plans for publishing data re solicitors' complaints. There has been talk of LeO selling the data to a commercial company so that it could analyse it and publish a list of the worst firms

A handwritten signature in black ink, appearing to read 'Mushtaq Khan', written over a horizontal dotted line.

MUSHTAQ KHAN

President