



**BIRMINGHAM LAW SOCIETY**  
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## **Response to the Legal Ombudsman Consultation on Case Fee Structure**

**August 2025**

# **Response of the Professional Regulation Committee of Birmingham Law Society to the Legal Ombudsman Consultation on Case Fee Structure**

This response has been prepared by the Professional Regulation Committee of the Birmingham Law Society. The Society is the largest local law society with some 9,000 members from all branches of the legal profession and practising in all aspects of law. The response represents the collective views of the Professional Regulation Committee whose members include specialist lawyers practising in all aspects of professional regulation and compliance for the legal profession.

## **Introduction**

We thank the LeO for a well written consultation paper with sensible proposals and adequate data with which to support those proposals. We appreciate that the case fee only covered 5% of the LeO's operating costs in 2024/2025 and that the majority of the costs are covered by the legal profession, mainly by solicitors. Although outside the scope of this consultation we would reiterate comments that we have made in previous responses to consultations for the LeO to focus on its core function i.e. offering a complaint resolution service. Although good progress has been made by the current senior management team and they are to be congratulated for this, any diversion of resources and energy to non-complaint resolution activities should be firmly rejected. For example, the last LeO budget consultation was investigating spending significant sums on the publication of decisions project. This type of project should be shelved until the LeO can operate a timely and efficient complaint resolution service.

## **Question 1**

*The case fee will increase. To what extent do you agree or disagree that the proposed inflationary increase to £600 (rather than the £800 originally proposed) balances the*

*need to increase the Legal Ombudsman's case fee whilst mitigating the risk of an adverse impact on the sector or individual providers?*

We agree with the proposed inflationary increase from £400 to £600. The case fee has remained at £400 since 2010 when the LeO was first set up so the increase is justified.

We agree with the LeO's rejection of the two alternative methods of structuring the case fee regime – i.e., a tiered approach or a polluter pays system. Both of these other procedures are more complicated and would be prone to challenge. The cost of collection/enforcement would therefore outweigh any financial benefit. The case fee should be kept to a standard fee as proposed so it is less costly to implement.

## **Question 2**

*To what extent do you agree or disagree that a regular review of the level of the case fee level should be introduced?*

We agree that a regular review of the case fee level should be introduced. However, we would be strongly in favour of additional data being collected by the LeO to evidence the percentage of case fees that are actually recovered in each year and the cost of that recovery. The current data that we have seen shows the amount charged but not the amount recovered or the cost of recovery. Such additional data would enable the LeO to impose commercial considerations upon the case fee structure which would assist its decision making going forward. There is no point increasing the case fee every few years if the cost of recovery extinguishes the financial benefit. The LeO would be better served scrapping the case fee and increasing the level of compensation payable by law firms to successful complaints when there has been poor complaint handling.

Also, we suggest that the LeO considers imposing a nominal complaint fee of £50 payable by complainants which would be refunded if the complaint were upheld. We consider that this fee should not apply to legal aid cases as it might be considered a barrier to access to justice for those unable to afford the payment. The introduction of a fee would filter out those complainants whose complaints are entirely without merit but who consider it worthwhile to complain in the hope that the law firm will make a nuisance payment to rid themselves of the problem. An amendment to Rule

6.5 of the Scheme Rules which states that there is no charge to complainants would be necessary. Any sensible steps that can be taken to lessen the load would be welcomed as these complaints impose a financial burden on law firms and the LeO that is not in the best interests of the public or the profession. The overloading of the free Ombudsman scheme is in itself an access to justice issue as the frivolous complaints prevent serious complaints being investigated at an earlier stage.

Further, we are not convinced that the legal profession is aware that even if a complaint is dismissed as being without merit a case fee is still payable where the LeO is not satisfied that the law firm person took all reasonable steps to try to resolve the complaint under their complaints' procedures - Rule 6.2 of the Scheme Rules. One can imagine the difficulty of taking all reasonable steps to try to resolve an entirely unmeritorious complaint hence our suggestion above of there being some nominal financial responsibility placed upon the complainant to weed out those whom one might describe as "chancers".

### **Question 3**

*To what extent do you agree or disagree that every five years is an appropriate level of frequency for a review of the case fee arrangements?*

Subject to our response to question 2 above, we agree that five years is appropriate. The LeO is required by the Legal Services Act to consult with the profession so any more frequent review would be both disproportionate and uneconomic.

### **Question 4**

*Do you agree to the proposed change to the Legal Ombudsman's Scheme Rules?*

We agree the change to Rule 6.3 of the Scheme Rules to replace the figure of £400 with a figure of £600.

**Birmingham Law Society Professional Regulation Committee**

**August 2025**