BIRMINGHAM LAW SOCIETY

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Response of the Birmingham Law Society Property and Development Committee to Changes to Scheme Rules, Case Fees and Publication of Ombudsman Decisions

September 2026

The Birmingham Law Society ('the Society') is the largest provincial local law society with a membership of some 9,000, representing solicitors, barristers and paralegals working in the West Midlands area. This response has been prepared by the Society's Property & Development Committee ('the Committee') in response to the Legal Ombudsman's consultation on changes to the scheme rules, published on 10/06/2026.

The Committee is formed of legal practitioners who deal with many different aspects of property law, including residential conveyancing, and come from various sizes of practice. The Committee exists to give a voice to local practitioners and lobbies on their behalf.

Q1. Do you agree with the principles underpinning LeO's proposed changes to its Scheme Rules?

Please explain why you've given that answer.

- We broadly agree with the principles, IF the right measures are put in place, then it is assumed that this should improve efficiency of the system.

Q2. Do you support the proposed substantive changes to the Scheme Rules? If not, or not fully, why – and what changes would you suggest?

We support the introduction of a long-stop date, but consider that 12 years is too long and should be shorter. Firms are generally expected to retain files for only six years after a matter concludes, after which they may lawfully be destroyed; a firm asked to answer a complaint beyond that period will often no longer hold the file it needs to respond, which is made worse by the increasing use of AI to generate complaints. We would favour aligning the long-stop with the six-year limitation period for a contractual claim, so that it matches the period for which firms are expected to keep their papers.

- We have some concerns that the proposed detriment threshold could exclude some legitimate complaints where harm is difficult to evidence or quantify. Need clear guidance and safeguards to ensure genuine complaints are not screened out in the pursuit of reducing demand. Greater guidance is needed on what constitutes "real and material disadvantage".

Q3. Do you support the proposed additional administrative changes to the Scheme Rules? If not, or not fully, why – and what changes would you suggest?

- The administrative changes improve clarity, accessibility and consistency and are supported.
- However, we do think the requirement to use an online complaint form could disadvantage vulnerable, elderly or digitally excluded consumers.

Q4. Do you agree with the principles underpinning LeO's proposed changes to its case fee arrangements?

Please explain why you've given that answer.

- The proposed fees are significantly higher than the current arrangements and could have a disproportionate impact on smaller firms.
- There is a risk that increased financial penalties could encourage defensive complaint handling rather than constructive resolution

Q5. Do you agree that legal providers who don't respond to complaints within prescribed eight weeks should pay an extra fee? If not, how do you think this issue should be addressed?

- The additional £400 fee for failing to issue a final response within eight weeks may not adequately reflect circumstances where delays are outside a firms control. There should be an option to apply for an extension of time on certain grounds.

Q6. Do you agree that legal providers who make the most significant demands on LeO's resources should pay a bigger share of LeO's overall costs? Please explain why you've given that answer.

- Yes because it creates a stronger incentive for firms to improve service quality and complaint handling.
- The proposed approach may also encourage earlier resolution of complaints and reduce avoidable demand on LeO.
- However the charging regime must remain proportionate and should not have an undue impact on smaller firms or firms operating in high-complaint practice areas.

Q7. Do you agree that all complaints within LeO's jurisdiction should be chargeable for case fee purposes, with a waiver applicable in certain circumstances? Please explain why you've given that answer.

- We share the concern, raised elsewhere within the Society, that removing the automatic exemption for dismissed complaints and making every in-jurisdiction complaint chargeable unless waived risks charging firms for complaints that are ultimately found to have no merit — particularly where those complaints are speculative or AI-generated. This is a significant change from the current position and we do not support it without much clearer safeguards.

In particular, the waiver test relies heavily on LeO's assessment of whether a provider took "all reasonable steps", which could lead to inconsistency unless clear guidance is provided. A firm that has successfully resisted an unfounded complaint should not pay a fee simply because the complaint was made.

Q8. Do you agree that the proposed levels of case fees incentivise better first-tier complaint handling and resolving complaints at the earliest possible stage? Please explain why you've given that answer.

- As above, the proposed increases are significant and may have a disproportionate impact on smaller firms and firms operating in areas that naturally attract higher complaint volumes.

Q9. Do you agree with the principles underpinning LeO's proposed change in policy on publishing ombudsman decisions? Please explain why you've given that answer.

- There is a risk of reputational damage where decisions are published without sufficient context regarding the complexity of the matter or the firm's wider complaint record. Published decisions should clearly distinguish between findings of poor service and findings where no poor service was identified
- More fundamentally, we question whether publishing all decisions — including those finding no poor service — assists consumers, and we would favour retaining LeO's existing power to publish in the public interest rather than moving to publication of all decisions by default.

Q10. Do you agree that all Ombudsman final decisions should be considered for publication, ensuring the consumer can't be identified? If not, what are your concerns, and how could they be overcome?

- As above.

Birmingham Law Society,

2nd September 2026