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How High Street solicitors view the publication of complaints information

A research report for: the Legal Ombudsman

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1 Introduction

The Legal Ombudsman was created in October 2010 to investigate complaints about legal services provided by lawyers regulated in England and Wales (this includes solicitors, barristers, legal executives, trademark attorneys and other legal service providers).

The Legal Ombudsman has the power to publish reports outlining their investigations and decisions with regard to consumer complaints. The publication of such reports was the subject of this qualitative research undertaken by GfK NOP, commissioned to help the Legal Ombudsman understand the attitudes of High Street solicitors to the publication of consumer complaints and the decisions of the Legal Ombudsman.

The findings from this research will be used by the Legal Ombudsman to help devise and design the most effective and fair way of communicating investigations and decisions.

Research Objectives

This research sought to explore what High Street solicitors saw as the advantages and disadvantages of the Legal Ombudsman publishing complaints information, and what impact it could have on their firm.

Specifically this research looked at:

- Whether solicitors or any other parties would use such information in practice and, if so, in what ways
- What solicitors understand by terms that the Legal Ombudsman might use when describing case outcomes
- Views on what type of cases should be published, e.g. cases resolved through informal resolution or just Ombudsman decisions; all cases or just those involving a remedy
- Views on how complaints information should be presented, e.g. in tables, case summaries, full text of decisions
- What contextual information would help solicitors to make sense of the information, e.g. size of firm, number of transactions, area of legal work etc

Summary of findings

- Solicitors were aware of the Legal Ombudsman however they had little knowledge of its powers.
- Solicitors were pleased to hear that the Legal Ombudsman could deal with complaints informally as well as formally.
- When considering complaints, High Street solicitors were concerned they would lose control of the process to the Legal Ombudsman and/or the consumer.
- 'Problem clients' were presented as a threat to the accuracy of Legal Ombudsman complaints information.
- Solicitors were generally hostile to the Legal Ombudsman publishing complaints information.
- Presenting information within context was essential for solicitors to accept publication.
- Solicitors recommend that formal and informal cases were published.

2 Research methodology

A qualitative methodology was employed for the research. One hour telephone depth interviews were conducted with fifteen High Street solicitors from across England and Wales.

2.1 The sample

All were High Street solicitors i.e. solicitors who work in similar geographical locations to their consumers. Three geographical regions were selected: London (the urban South), Birmingham (the suburban/semi-rural Midlands), and Clwyd (semi-rural/rural North Wales).

Within the sample, ten High Street solicitors worked for law firms while five were sole traders. It was felt that sole traders may view Legal Ombudsman publications differently to solicitors who worked in law firms. The sample also included solicitors with varying lengths of time in the profession. Below is a summary table of the solicitors who took part in the research:

London			Midlands			Wales		
<u>Sole traders:</u> 2		<u>Practice solicitors:</u> 3	<u>Sole traders:</u> 1		<u>Practice solicitors:</u> 4	<u>Sole traders:</u> 2		<u>Practice solicitors:</u> 3
<u>>5yrs:</u> 2	<u>5-10yrs:</u> 1	<u>10+yrs:</u> 2	<u>>5yrs:</u> 1	<u>5-10yrs:</u> 1	<u>10+yrs:</u> 3	<u>>5yrs:</u> 1	<u>5-10yrs:</u> 1	<u>10+yrs:</u> 3

Within the sample, the High Street solicitors offered a variety of legal services including conveyancing, probate, family law, immigration and criminal law. All solicitors worked for small firms with seven holding management positions while three were in non-management roles.

Recruitment was undertaken by one of GfK NOP's preferred suppliers who sourced solicitors based on their responses to a screening questionnaire. This questionnaire was developed by GfK NOP with the Legal Ombudsman to ensure that good mix of solicitors participated in this research.

2.2 The interview

A topic guide was designed for researchers to use when interviewing solicitors. The guide included five main sections as follows:

The Legal Ombudsman	<i>Aim:</i> Gauge level of awareness of the role of the Legal Ombudsman, and explore understanding of the complaints procedure amongst High Street solicitors
Complaints Information	<i>Aim:</i> Understand the level of awareness High Street solicitors have about the information gathered by the Legal Ombudsman and plans to make complaints information more accessible to the public
Test four publishing approaches	<i>Aim:</i> Solicitors to evaluate four different approaches to publishing complaints information
Inclusion, use and access	<i>Aim:</i> Explore what types of cases that should be published by the Legal Ombudsman and how useful High Street solicitors think sharing complaints information will be for the general public
Impact of publication	<i>Aim:</i> Identify the potential impact of publication on High Street solicitors

Each participant was sent a copy of the four publishing approaches that were tested during the interview (show cards a, b, c, and d). Each approach varied in terms of the way information was presented as well as the amount of detail included in the description.

3 Research findings

Given the varied sample that took part in this research, it was surprising to find that there was little difference in terms of opinion between sole trader and practice solicitors, or solicitors in the South of England, the Midlands or Wales. However, when differences within these sample groups have arisen it has been highlighted in the findings below.

The report is structured in four sections reflecting the topics covered in the interviews. The first section focuses on the Legal Ombudsman and the perception solicitors have of it as a new organisation responsible for investigating consumer complaints. The second section looks specifically at the impact the Legal Ombudsman's intention to publish complaints information could have on High Street solicitors while the third section evaluates four ways of presenting complaints information.

3.1 The Legal Ombudsman

Solicitors were asked about their awareness of the Legal Ombudsman as an organisation, and reflect on the role and relevance of the Legal Ombudsman to their everyday work.

Summary box:

- High Street solicitors had heard of the Legal Ombudsman, however its precise role was not clear.
- The Legal Ombudsman was understood to provide impartial mediation and investigation into complaints, however a number of solicitors felt that the Legal Ombudsman would favour the consumer over the solicitor.
- Solicitors questioned the ability of the Legal Ombudsman to understand complex complaints as it was perceived that Legal Ombudsman staff would not have a legal background.

Generally there was high awareness of the Legal Ombudsman, with many solicitors first hearing about it while reading the 'Law Gazette' and then seeing

the Legal Ombudsman in their client care letter. Others who were less familiar had been told by colleagues about the new organisation or had simply assumed that the legal services profession would already have an Ombudsman allocated to it. One participant had attended a seminar and heard the Chief Ombudsman give a presentation about his expectations for the new role of the Legal Ombudsman while another had received a flyer from the Law Society introducing the Legal Ombudsman.

There was confusion amongst a small proportion of participants who did not realise that the Legal Ombudsman was a new organisation. Others confused the remit of the Legal Ombudsman with the Solicitors Regulation Authority (SRA).

“I understand the SRA deals more with professional conduct; the Ombudsman is trying to resolve disputes.” Practice solicitor, Wales

Specific understanding of the role of the Legal Ombudsman was sometimes not clear, with a number of solicitors making educated guesses as to how it differed from the SRA. The consumer role of the Legal Ombudsman was not often at the forefront of solicitors' minds with many seeing the Legal Ombudsman as a useful organisation to inform solicitors of bad practice and to find out about the conduct of their competitors. There was an appetite for this type of information as many solicitors admitted to regularly checking the Law Gazette for the list of SRA interventions.

Overall the Legal Ombudsman was thought to be a consumer focussed organisation, set up to assist the clients with complaints and negotiations with legal services providers. Although the Legal Ombudsman 'made sense' to solicitors, some questioned the need to involve others in the conduct of legal services providers.

“Where clients can go if they've got a grievance against a solicitor whose been acting for them and they'll investigate the complaint and make a decision.” Sole Trader, Midlands

“I know what it is! I think every solicitor should know what it is. I've not had any dealings with it fortunately but I assume it's the same as every other Ombudsman, where complaints are made and they have the power to resolve them.” Practice solicitor, Midlands

Solicitors felt that their profession already had an informal yet strong sense of morality and good ethical conduct, with solicitors willing to admit to errors and seek to rectify situations in-house. Therefore solicitors were unfamiliar with service regulation and felt there was limited call for an external body to deal with their client issues.

However, the majority of solicitors recognised that they provided a service to consumers and therefore there was a need to have an impartial organisation to help with disputes when a 'stalemate' had arisen.

“From a consumer point of view it’s a good thing to have; it’s a back up if they do feel aggrieved but from the solicitors point of view you would hope that they [Legal Ombudsman] look at all the facts and make a fair decision.” Sole Trader, Midlands

Some High Street solicitors were sceptical of the level of legal comprehension the Legal Ombudsman would have when dealing with complaints. A number were certain that the Legal Ombudsman would not correctly understand consumer complaints or be completely impartial (some felt that the Legal Ombudsman would side with the consumer more than the solicitor when reviewing complaints). Therefore solicitors were interested in knowing more about the Legal Ombudsman in terms of the staff, their background, and eligibility to make decisions about legal complaints.

Complaints procedure

Solicitors were asked to discuss their internal complaints procedure and then reflect on the Legal Ombudsman approach to dealing with consumer complaints.

Summary box:

- All solicitors had had experience of dealing with a client complaint internally.
- Some solicitors were not comfortable with involving the Legal Ombudsman in consumer complaints.
- Few solicitors were aware of the way Legal Ombudsman resolved complaints (informal and formal).
- Solicitors welcomed an informal way of resolving complaints with the Legal Ombudsman.

Dealing with a client complaint was described as ‘significant’ and ‘stressful’ by a number of solicitors and the majority of solicitors had dealt with an internal client complaint in the past. There was also a high level of awareness of formal complaints, whether they had been brought against colleagues or to other firms.

There was little awareness of the eight week period (as a length of time) before a consumer could contact the Legal Ombudsman to make a formal complaint. Solicitors did not see this period of time as an opportunity to negotiate with their client and come to an internal solution; instead they saw it as an imposed time restriction within which the solicitor and the client would need to resolve their differences before involving the Legal Ombudsman.

Solicitors did not want to involve the Legal Ombudsman in their complaints and always wanted to resolve any issues internally before involving a third

party. Many felt that their internal procedures were effective as none of the solicitors that took part in the research had had a complaint presented to the Legal Ombudsman (however the Legal Ombudsman was only established two months before the interviews took place, October 2010).

Solicitors were not aware of the exact process by which the Legal Ombudsman would investigate consumer complaints. When asked how they thought the Legal Ombudsman would process complaints, most hoped to be given the opportunity to present their version of the complaint rather than simply receive a formal decision.

“As long as the rules of natural justice are observed and the solicitor has the opportunity to respond in a reasonable time frame...then I don’t see any disadvantage.” Practice solicitor, Midlands

In each interview the researcher explained the procedure the Legal Ombudsman would use to resolve complaints. The formal and informal approaches were explained together with the examples of possible remedies the Legal Ombudsman could offer.

The informal procedure combined with a more formal way of dealing with the complaints was welcomed by High Street solicitors.

Informal approach

The informal approach to resolving client complaints was liked by all solicitors for two main reasons:

- An informal resolution was thought to be less serious than a formal resolution, even though both involved the Legal Ombudsman. Solicitors felt that an informal remedy would mean that complaints would not be published by the Legal Ombudsman.
- An informal approach was thought to provide a forum where solicitors could negotiate with the Legal Ombudsman about the complaint before receiving a decision.

“If everybody feels they have managed to resolve things informally it leaves a better taste in everybody’s mouth.” Sole Trader, London

Solicitors were wary of the powers the Legal Ombudsman may have when it comes to ordering remedies. They were concerned and wanted to be reassured about the knowledge of the Legal Ombudsman and therefore whether its decisions would accurately reflect the reality and gravity of the mistake. Offering an informal approach to resolving client complaints was thought to address these issues and present the Legal Ombudsman as an impartial organisation rather than purely consumer-led ‘watchdog’.

“I think that’s a good idea. I think everyone should be given the opportunity to resolve things without having a decision

enforced on them...Sometimes it just needs somebody independent to step in and say...‘we really don’t agree with that you’ve done, maybe you ought to consider agreeing to this?’.”

Practice solicitor, Wales

As solicitors assumed that an informal resolution with the Legal Ombudsman would not result in publication of the complaint, some solicitors were concerned that disproportionate offers could be made to clients at the informal stage of Legal Ombudsman involvement in order to resolve issues informally.

Formal approach

The formal approach to resolving client complaints was not surprising to solicitors and was expected as the main function of the Legal Ombudsman.

Solicitors realised that the Legal Ombudsman had the power to order certain remedies such as an apology, doing extra work to put right what went wrong, and to offer refunds or reduced legal fees. Solicitors were not aware that the Legal Ombudsman had the power to order compensation to be paid up to the level of £30,000. All solicitors noted that this was a substantial amount of money. The ability to order compensation to be paid concerned solicitors in a number of ways:

- *How would the Legal Ombudsman make decisions about compensation levels?*
Would the Legal Ombudsman follow a set structure or would compensation be awarded at the discretion of each Ombudsman? Solicitors wanted to know more about this process.
- *Solicitors were concerned that consumers might illegitimately use the Legal Ombudsman to help them reduce their legal bills or to receive money via a compensation remedy.*
Solicitors anticipated ‘problem clients’ would be the most likely to do this but other consumers might be encouraged to involve the Legal Ombudsman once they hear about the £30,000 compensation limit.

The 'problem client'

When discussing complaints, many solicitors referred to the 'problem client' who was described as an individual who would be willing to complain to the law firm (and presumably the Legal Ombudsman) regardless of the gravity of the complaint.

"There are always clients that are nightmare clients and whatever you do they are always going to find ways to complain about you." Sole Trader, London

"All the general public will want to see is how much money they will get, not the detail of the issue or whether they have been asked to apologise."

Practice solicitor, Midlands

"We do work on the basis that we try and give a good service but there are a handful of people who are so so difficult whatever happens and you feel you have to address things and try and bring them to a conclusion even if they have gone as far as to make an official complaint on the basis that some people are just terrier-like and just will not give up, however unreasonable it is."

Practice solicitor, Wales

These individuals concerned solicitors as they thought that the introduction of the Legal Ombudsman could perpetuate the actions of these 'problem clients' and legitimise similar activity in other clients.

3.2 The impact of publication

Solicitors were asked to reflect on the publication of information about complaints accepted by the Legal Ombudsman and how it would impact them and the legal profession.

Summary box:

- Most High Street solicitors were not in favour of the Legal Ombudsman publishing complaints information.
- Solicitors who were in favour of the Legal Ombudsman publishing complaints information were client focused and interested in improving client satisfaction.
- Solicitors who were least in favour of the Legal Ombudsman publishing complaints information were also against the publication of law firm names.
- Many reasons were given to discredit publication of complaints information. Negative impact on the reputation of a solicitor and the involvement of 'problem' clients were amongst the most common reasons given.

The decision to publish information about complaints accepted by the Legal Ombudsman was met with mixed opinion from solicitors. Some solicitors saw the merits in publishing such information, however the majority of solicitors interviewed were unhappy about publication.

For those solicitors who were in favour of the Legal Ombudsman publishing complaints information, they felt that: (in order of frequency of mentions)

- Solicitors who were aware that they offered a service to their clients were therefore happy to be held **accountable** for any mistakes or errors that occur.
- Publishing complaints information would bring **greater transparency** to the legal profession and possibly demystify the work undertaken by solicitors.
- Publication could **improve the quality of service** provided by solicitors as each case would act as clarification about service issues. Solicitors felt it would also be advantageous to read how firms/sole traders improved their procedures to guard against future complaints.
- Publishing would enable solicitors to know more about their **competitors**.

“I’d be inclined to say this wasn’t a good idea [publishing names of law firms] because I work in the profession, but from the consumer’s point of view I can see why they wanted to know if Joe Bloggs [law firm] has had 100 complaints against them in the past year whereas the firm down the road have had none.” Sole Trader, Midlands

“I’m sure colleagues would love to search against a particular firm and see how many complaints they’d got against them...from a local point of view I can see other firms checking, possibly estate agents, if they know the information is there, having a nose. Lenders and insurers, I think they would all look. I think it’s just human nature.” Practice solicitor, Midlands

High Street solicitors who were less happy about the Legal Ombudsman’s intention to publish complaints information were generally concerned about: (in order of frequency of mentions)

- Complaints **damaging the reputation** of a firm/sole trader. Publishing complaints information, information that is currently not available to the public, together with the name of the law firm would affect public opinion of the solicitor.
- The opportunity for **‘problem clients’ to purposefully damage the reputation** of a firm. A number of solicitors viewed the publication of complaints data as issuing a ‘call to arms’ to problem clients who might manufacture complaints in order to tarnish the reputation of certain solicitors.
- Solicitors would not have a **‘right to reply’**. Solicitors were concerned that the Legal Ombudsman would not involve solicitors in their decision making. Therefore the Legal Ombudsman could potentially issue decisions and remedies that solicitors do not agree with yet they must comply with.
- Publication of complaints information could be open to **misinterpretation**. Solicitors were concerned that however the Legal Ombudsman decides to publish such information, it would not communicate the complex nature of the law and therefore allow the reader to make their interpretation of the facts.
- Publishing complaints information would have a negative **impact on sole traders**. Although practice solicitors were concerned about Legal Ombudsman publications, the majority of solicitors recognised the potential impact on sole traders due to their reduced anonymity and reliance on a smaller client base. Larger practices were also thought to be better able to deal with complaints, hence less likely to have a complaint presented to the Legal Ombudsman.

- **Consumers do not use formal and/or official information** to select a solicitor. Consumers most often select solicitors based on word of mouth or reputation. Therefore the argument that the Legal Ombudsman publication would help consumers make more informed decisions about legal services providers is currently not valid.
- The publication of complaints may limit the potential selection of solicitors onto **lenders' panels**. Many solicitors, especially sole traders, mentioned that it was becoming increasingly difficult to join the big lenders' panels. Sitting on panels enable solicitors to undertake regular work, such as conveyancing, on behalf of banks and building societies in conjunction with the home buying and selling process. Solicitors were concerned that big lenders may use the Legal Ombudsman complaints publication to select future firms to work with.
- Publication could impact on **professional indemnity insurance** fees. Similar to the concerns about lenders panels above, solicitors were concerned about appearing in the Legal Ombudsman publications and the knock on effects it could have on their insurance premiums.
- **Data protection** issues. Client anonymity was cited as a concern for solicitors, especially when a published complaint deals with a sensitive matter such as divorce or probate (matters which are usually very private for clients). The level of information and detail shared in the publication should ensure that the identity of clients is protected at all times.
- Solicitors to become **target driven**, like education, concentrating on improving their place on the complaints 'league table'. Admittedly very few solicitors viewed the Legal Ombudsman complaints information as indicative of quality of service, however a number of solicitors mentioned the strategies law firms might employ in order to remain off the list/minimise the number of complaints appearing on the list.
- Some, possibly more cynical solicitors saw the Legal Ombudsman decision to publish complaints information as an attempt to **generate publicity** and validate the existence of the new organisation (rather than having a genuine vested interest in the legal services sector).
- The use of complaints information by **the media** was also mentioned by a few participants however in more urban areas it was assumed that such information would not be of such interest. However, the potential for the media to build a story around dissatisfied clients was something that solicitors wanted to guard against.

“A solicitor could lose work when the perception of the consumer, that the solicitor isn't doing a good job, is unfounded really.” Management, Midlands

“I don’t think it would assist [potential clients] because I don’t think that most people look at this type of thing when deciding which solicitor to go to. Quite often they just see what solicitors there are locally and just decide which one they want to go and see.” Practice solicitor, Wales

“If the role of the Legal Ombudsman is to tarnish the name of legal services, that’s the way to do it.” Practice solicitor, Midlands

Anonymity versus the publication of the law firm

Many of the arguments are affected by the Legal Ombudsman decision to publish the names of the law firms involved in a consumer complaint. Although most High Street solicitors were not in favour of publication, opinion was split in terms of whether the Legal Ombudsman should identify firms, given the inevitability of publication.

Against the publication of the law firm:

It was suggested by those who were against the Legal Ombudsman publishing the names of firms, that it would create a ‘black list’ of solicitors whose reputation and business would be irrevocably damaged by publication.

“From a solicitor’s point of view you can see the amount of claims that have been dismissed...but my worry is that a consumer isn’t going to read that much into it, they’ll just look at the number of complaints.” Sole Trader, London

“For me, it [publishing the names of law firms] would turn the Legal Ombudsman into an organisation that was there for the consumer rather than impartial. It would be more like a watchdog.” Sole Trader, London

In favour of the publication of the law firm:

Solicitors were able to understand the premise of publishing the names of law firms involved in a complaint. These solicitors were more consumer-focused in their outlook, realising the potential use of such information when selecting a legal services provider. The usefulness of anonymous complaints information would therefore be limited to the legal profession, to inform professional standards and quality; the consumer would not have a rational use for anonymous complaints information.

“As a solicitor you don’t want the complaints to be published

but if they are going to be published, what's the point if they don't name the firm?" Practice solicitor, Wales

"I think the name of the law firm is paramount! That's the one thing that should go in there if nothing else." Practice solicitor, Midlands

3.3 Published information and presentation

Solicitors were asked to comment on the type of information that they felt the Legal Ombudsman should include when publishing complaints information. The issue of naming law firms will not appear in this section as it has already been covered above.

Summary box:

- Solicitors felt that presenting complaints with contextual information was essential to ensure an impartial account of a complaint.
- It was felt that both formal and informal complaints should be included in any Legal Ombudsman publication.
- There was no clear preference in terms of presentation of complaints information.
- If solicitors were to use the information, a longer, more detailed explanation of the complaint would be necessary. If consumers were to use the information: a short summary or table would suffice.

It was generally accepted that complaints information should be made available on the Legal Ombudsman website rather than published offline. This was thought to enable the Legal Ombudsman to have greater control over the information (in terms of updating and deleting information) as well provide an accessible platform for consumers and solicitors to use.

One solicitor disagreed with this premise (a solicitor who did not want the Legal Ombudsman to publish complaints information). This High Street solicitor suggested that reducing the information published could render the complaint information useless and therefore fulfil her desire to devalue its use by the public and profession.

Published information

For High Street solicitors it was paramount that the publication of any complaints information must include sufficient context of the case. Context was thought to enable the reader to make a fair and impartial assessment of the complaint. Solicitors were very concerned about the misinterpretation of published information and therefore generally wanted the Legal Ombudsman to include as much information in their summary as possible in order to provide an explanation of the error/mistake that has occurred.

“I think if they were going to publish something then my suggestion would be that they make the complaint available in full...more detail so the people can say „well, I can put that in context“.” Practice solicitor, Wales

Contextual information that was thought to be valuable to include:

- **The size of the law firm.** It would be useful to know the number of solicitors employed against the number of complaints made.
- **A response from solicitor** as to how their procedures/policies have changed in response to the complaint. This would waylay some of the fears consumers might have about commissioning a firm that has had a complaint accepted but the Legal Ombudsman.
- **The role of the client** in the case. In order to bring balance to the presentation of the complaint, the conduct of the client as well as the solicitor should be included in the published information.
- Explanation of remedy to understand the **seriousness of the complaint**. As solicitors were surprised by the powers of the Legal Ombudsman, many felt that the final decision of the Ombudsman should be clarified in terms of significance/gravity.

In addition to contextual information, solicitors were asked to discuss which Legal Ombudsman cases should be published. During the interview, solicitors were asked to consider three types of cases:

- a) **All cases** (all cases that are investigated by the Legal Ombudsman, regardless of the outcome of the case or how they were resolved. This would include cases where the lawyer was found to have done nothing wrong)
- b) **Only cases involving a remedy** (cases investigated by the Legal Ombudsman where the lawyer agreed to (informally) or was made to put things right for the consumer (formally).
- c) **Only formally resolved cases involving a remedy** (cases that have been resolved by a formal decision by an individual

Ombudsman where the lawyer was required to put things right for the consumer)

The majority of solicitors said that the Legal Ombudsman should publish only cases involving a remedy. This was the preferred option for solicitors as it was thought to represent an honest account to the reader. By including both formal and informal cases, all those that have been resolved with the help of the Legal Ombudsman are listed. It was felt that for a complaint to escalate as far as the Legal Ombudsman, it should be included in publication.

“There is an argument to say that if the lawyer did it informally without a finding being made then maybe that shouldn’t be published because then it gives the firm incentive to resolve it quickly.” Practice solicitor, Midlands

Solicitors were concerned about creating a culture where firms did not play by the rules, offering clients generous recompense that does not reflect the reality of the case, in order to avoid a formal remedy. This practice was thought to be available to larger law firms, hence disadvantaging the High Street solicitor.

The least favoured publication approach would include all cases investigated by the Legal Ombudsman regardless of the outcome of the case. This publication option was thought to disadvantage solicitors who were dealing with ‘problem clients’ whose complaints may not be valid. It was also thought to put a lot of power into the hands of the consumer who could distort the statistics (intentionally or unintentionally). It was also thought, by solicitors, that data outlining the number of cases presented to the Legal Ombudsman about a certain firm would encourage the reader to suspect that there’s ‘no smoke without fire’, i.e. assume that the firm would not offer good service despite the Legal Ombudsman always finding in favour of the solicitor.

“If they’ve been found to have done nothing wrong I don’t see that there’s any need for the clients to know that a complaint was made in the first place.” Practice solicitor, Wales

In addition to service based issues, a few solicitors felt that publishing all cases would result in a lot of effort on behalf of the Legal Ombudsman and could ultimately be seen as a waste of resources that could be better employed investigating cases.

Presentation

Prior to the telephone interview, all solicitors were sent a copy of the four proposed formats the Legal Ombudsman could use to present complaints information. These four formats were evaluated in the interview and each solicitor was asked to choose their preferred presentation style. The first presentation format is a table, the second is a short summary that includes six key pieces of information, the third summary expands on these six areas (to

about half an A4 page), while the fourth presentation format is a quite detailed A4 page.

Please note that all firms used in the show cards were invented and do not relate to real firms.

1) *Show card a:*

Presents the number of complaints in a tabular form.

SHOWCARD A			
Firm	Number of complaints accepted by the Legal Ombudsman in 2011	Percent of cases where the lawyer agreed, or was made, to do something to put things right	Percent of cases where the lawyer was not thought to have done anything wrong
Bloggs & Co, Birmingham	4	25%	75%
Brooker & Co, Birmingham	7	100%	0
Fennemore LLP, Birmingham	1	100%	0
Smiths Solicitors LLP, Birmingham	3	100%	0
Brown & Jones, Birmingham	2	50%	50%
Nortons, Birmingham	10	80%	20%
Midlands Conveyancing Services, Birmingham	19	50%	50%
Ashas Solicitors, Birmingham	1	100%	0
RF LLP, Birmingham	1	0	100%

Presenting complaints information in a tabular form was disliked by most solicitors as it did not offer the reader any information about the complaint or the outcomes agreed to. Presented in isolation, this table was thought to provide very little useful information to the consumer however it was the most successful format for protecting the identity of clients.

The columns included in the table were often misunderstood by solicitors who did not understand that the third column included formal and informal cases. The other main issue solicitors had with the table was the need to include a column stating the number of complaints accepted by the Legal Ombudsman and the percentage of cases where the lawyer was not thought to have done anything wrong. Solicitors did not think it was necessary for these columns to be included as they might confuse consumers and make them think a firm such as Bloggs & Co provided bad service to four clients when in fact three of the four complaints Bloggs & Co were found to have done nothing wrong.

“From a solicitor’s point of view you can see the amount of claims that have been dismissed...but my worry is that a consumer isn’t going to read that much into it, they’ll just look at the number of complaints.” Sole Trader, Midlands

To improve the presentation of format, solicitors suggested that the time period that it represents (e.g. 2010-2011) would be useful as would presenting the firms in alphabetical order (making it easier to search for certain firms).

Solicitors also felt that the third column should be unpacked, with a separate column for agreements reached (informal), those where solicitors were made to do something (formal).

Additional presentation suggestion:

Although solicitors did not have a presentation preference, there was consensus that 'showcard a', the table, should be used on the Legal Ombudsman website as a front page to allow consumers to search and then research legal services providers. Solicitors thought that the inclusion of a table that outlined the complaints statistics would provide some context to the firm and the complaint when read in more detail. Publishing complaints information without a table, i.e. as show card b, c or d, would not help the consumer gain an overview of the firm/sole trader, nor would it place the number of complaints listed by the Legal Ombudsman in context of other firms/sole traders.

2) Show card b:

Presents complaint information using six headers and short sentences to summarise the main points.

SHOWCARD B

Case number: 1234567

Date: September 2010

Lawyer: Bloggs & Co., Birmingham

Area of law: Conveyancing (buying and selling property)

Complaint: Lawyer did not follow instructions

Result: We required the lawyer to apologise and pay compensation

Solicitors criticised this format because of its lack of real contextual information and the ability to misinterpret the nature and outcome of the complaint. This presentation format was thought to be very Legal Ombudsman centric without an opportunity for the solicitor to present their own point of view.

As solicitors were able to compare the same case, presented in the four different formats, this short summary of the complaint was criticised specifically for its description of the complaint: 'Lawyer did not follow instructions'. This was thought to be ambiguous especially as the complaint turns out to involve an administration error.

"As a solicitor you know that that's just one final little bit, it's just one form that goes to the Land Registry and if the document hasn't been returned then yes, the solicitor should have chased it up but I think it makes it look terrible to a consumer who knows nothing about law, that they've not been registered as the legal owner of the house but it's...only a small part of the conveyancing process." Practice solicitor, Wales

A small number of solicitors could see how this format would appeal to consumers who would not necessarily be interested in the full context of the complaint however this did not mean that they like the presentation format.

“They don’t want the detail do they? They want to know who’s the solicitor they’re going to eliminate from their choice.”

Practice solicitor, Wales

3) Show card c:

Illustrating the complaint in a similar format to ‘show card b’ however more detail is included when explaining the nature of the complaint.

A short paragraph to explain the context of the complaint was welcomed by solicitors. The length of this format was thought to enable the Legal Ombudsman to present a balanced account of the complaint that was easily digestible by the consumer (not too long).

SHOWCARD C

Date: September 2010

Lawyer: Bloggs & Co., Birmingham

Area of law: Conveyancing (buying and selling property)

Result: We told the lawyer to apologise and pay compensation

We investigated the solicitors firm Bloggs & Co and found that they did not manage the purchase of a house properly. Mr. and Mrs. A bought their house in 2005 and asked Bloggs & Co to do the conveyancing. When they came to sell last year, they discovered that they didn't actually own their home. We found that Bloggs & Co had failed to transfer Mr. and Mrs. A's names to the Land Registry documents. We weren't able to help Mr and Mrs. A and Bloggs & Co to come to an agreement about how to put things right, so we made a formal decision about the case. Deputy Chief Ombudsman Gary Garland decided that Bloggs & Co should apologise and pay Mr. & Mrs. A an amount of compensation.

“I think there’s a fine line between not putting too much in but making it clear what went on.” Practice solicitor, Midlands

Although the opportunity to provide more detail in this format is provided, it was criticised for not presenting a piece of crucial information that appears in ‘show card d’, that highlights the actions of the client in the case. This was thought to be an important detail to include as it changes the way the complaint is understood. Omitting the role of the client, and their obstructive behaviour, did not present a balanced account of the complaint.

Therefore, solicitors suggested to improve this presentation format, the Legal Ombudsman would need to outline the role of the client as well as the solicitor when explaining the complaint.

4) Show card d:

A longer and fuller explanation of the complaint including the actions of both the solicitor and the client was liked.

Presenting complaint information as an A4 sheet was thought by many solicitors as too long for many people to read and properly digest. However, the level of detail that was included in this format was thought to offer the best explanation of the context of the complaint and the role of both the client and the solicitor.

“It does give the solicitor’s perspective and I suppose it does allow you to take account that there was some...alleged fault on the part of Mr and Mrs A.” Practice solicitor, Wales

SHOWCARD D

Date: September 2010

Lawyer: Bloggs & Co., Birmingham

Area of law: Conveyancing (buying and selling property)

Result: Lawyer agreed to apologise and pay compensation

We investigated the solicitors firm Bloggs & Co and found that they did not manage the purchase of a house properly as the conveyancers. Mr. and Mrs. A bought their house in 2005 and asked Bloggs & Co to manage the transaction. At the time, Bloggs & Co sent them a clear letter explaining what they would do and how much it would cost, and this list included transferring the names of Mr. and Mrs. A. to the Land Registry. However, when Mr and Mrs A came to sell their house last year, they discovered that they didn't actually own their home.

Mr. & Mrs. A. complained to Bloggs & Co as soon as they discovered the problem. Bloggs & Co. sent a letter back explaining that they had done everything they had been asked to do and that the problem was the fault of Mr. and Mrs. A. Mr. & Mrs. A weren't satisfied with this response and so they complained to us.

We investigated this complaint and found that Bloggs & Co had failed to transfer Mr. and Mrs. A's names to the Land Registry documents. Mr. and Mrs. A did contribute to this problem by not sending back signed copies of some important documents by the deadline that Bloggs & Co had given them. However, we judged that Bloggs & Co were aware of this and could reasonably have been expected to remind Mr. and Mrs. A. about it as they knew Mr. and Mrs. A. were elderly and not experienced in dealing with solicitors.

We weren't able to get M and Mrs. A and Bloggs & Co to come to an agreement about how to put things right, so we made a formal decision about the case. Deputy Chief Ombudsman Gary Garland decided that Bloggs & Co should apologise and pay Mr. & Mrs. A an amount of compensation.

Although the level of detail included was liked, it was also criticised as a data protection risk, enabling interested individuals to identify the client discussed in the complaint. This style of presentation was also criticised for using technical, legal language that the consumer may not understand.

4 Conclusion

Solicitors were generally hostile toward the Legal Ombudsman’s plan to publish consumer complaints, with the majority of solicitors against the decision to make complaints information available to the public. The general mindset of High Street solicitors during this research has been summarised below:

- Publishing complaints information was a new concept for solicitors to consider. Therefore making information accessible to the public was not viewed as automatic or expected; instead it was viewed with scepticism and caution.
- The purpose of the publication was not obvious or apparent to some solicitors. These solicitors did not see publication as providing impartial information to the consumer; instead they viewed the publication of complaints as industry facing; for solicitors and law firms to read rather than the general public.
- High Street Solicitors considered a number of different publishing approaches, however there were mixed opinions as to the best way for the Legal Ombudsman to present complaints information.
- Solicitors were concerned about losing control of the complaints made against them. Most solicitors spoke of 'problem' clients and they feared that the Legal Ombudsman's decision to publish complaints information might add to the perceived power of these difficult clients.
- In addition to mitigating the power of the consumer, solicitors wanted reassurance that complaints information would be presented in an impartial manner and that each case would not be open to interpretation. It was therefore important to protect the reputation of the solicitor or the firm from the media and/or investigation from local interested parties.

High Street solicitors were confused as to the purpose of publication and the role the Legal Ombudsman played in making the information accessible. Therefore, solicitors may need additional information to understand the planned publication of complaints information, and additional reassurance that the role of the Legal Ombudsman is to be impartial and help the legal profession deal with 'problem' clients, instead of facilitating 'problem' clients control the legal profession.