



## **Bar Council response to the Legal Ombudsman Consultation on proposed changes to the Legal Ombudsman's Case Fee Structure**

1. This is the response of the General Council of the Bar of England and Wales (the Bar Council) to the Legal Ombudsman's (LeO) consultation on proposed changes to the Legal Ombudsman's Case Fee Structure.<sup>1</sup>

2. The Bar Council is the voice of the barrister profession in England and Wales. Our nearly 18,000 members – self-employed and employed barristers – make up a united Bar that aims to be strong, inclusive, independent and influential. As well as championing the rule of law and access to justice, we lead, represent and support the Bar in the public interest through:

- Providing advice, guidance, services, training and events for our members to support career development and help maintain the highest standards of ethics and conduct
- Inspiring and supporting the next generation of barristers from all backgrounds
- Working to enhance diversity and inclusion at the Bar
- Encouraging a positive culture where wellbeing is prioritised and people can thrive in their careers
- Drawing on our members' expertise to influence policy and legislation that relates to the justice system and the rule of law
- Sharing barristers' vital contributions to society with the public, media and policymakers
- Developing career and business opportunities for barristers at home and abroad through promoting the Bar of England and Wales
- Engaging with national Bars and international Bar associations to facilitate the exchange of knowledge and the development of legal links and legal business overseas

3. To ensure joined-up support, we work within the wider ecosystem of the Bar alongside the Inns, circuits and specialist Bar associations, as well as with the Institute of Barristers' Clerks and the Legal Practice Management Association.

4. As the General Council of the Bar, we are the approved regulator for all practising barristers in England and Wales. We delegate our statutory regulatory functions to the

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<sup>1</sup> [Proposed changes to the Legal Ombudsman's Case Fee Structure.](#)

operationally independent Bar Standards Board (BSB) as required by the Legal Services Act 2007.

## Introduction

5. We responded<sup>2</sup> to the Office for Legal Complaints (OLC) consultation on the LeO's draft business plan and budget 2025/2026 consultation<sup>3</sup> in 2024, in which a doubling of the case fee to £800 was proposed. As noted in our response, we suggested that LeO should take further time to consider the views of stakeholders before implementing an increase. We therefore welcome the OLC consulting on proposed changes to LeO's case fee structure.

**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?**

6. We support the proposed increase of £600 in the case fee rather than the £800 originally being considered. We take the view that the inflationary-only increase strikes the right balance between bringing the fee in line with cost increases over the last 14 years and mitigating the risks of adverse impacts on the sector and individual service providers.

7. We acknowledge the factors behind the proposal to increase the case fee level; the fee has not been increased since its establishment in 2010, and it may no longer be incentivising legal services providers to deal with complaints promptly and reasonably at the first-tier. It is important that the case fee is set at a level that achieves that original intention.

8. The majority of LeO's budget is funded by legal professionals. For barristers, the cost is structured as a levy to the practising certificate fee. As emphasised in our responses to previous LeO consultations, any increases to this levy need to be carefully considered and kept to a minimum. It is just one of many regulatory and compliance costs that need to be absorbed by barristers.

9. LeO has sought and been awarded significant budget increases in recent years (11.4% for 2025-26,<sup>4</sup> 13% for 2021-22, 5.8% for 2022-23 and 9.6% for 2023-24). It must therefore take all steps to prevent any further above-inflation increases. LeO has said that it expects case fee

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<sup>2</sup> [The Bar Council's response to the Office for Legal Complaints draft business plan and budget 2025/2026 consultation.](#)

<sup>3</sup> <https://www.legalombudsman.org.uk/media/kknh5fqb/olc-budget-and-business-plan-2025-26-consultation-final-v10-for-publication.pdf>.

<sup>4</sup> <https://www.legalfutures.co.uk/latest-news/legal-ombudsman-increases-budget-further-despite-opposition>.

revenue to equate to around 8% of operating costs for 2025/26, compared to the current 5%, if it increases the fee from £400 to £600.<sup>5</sup> This should help mitigate the burden on all barristers represented by the ever increasing levy contribution. The increase in case fee income should ensure that LeO can restrict levy increases to no more than required to keep pace with inflation.

**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?**

10. We agree that the case fee level should be subject to regular review and reviewed more frequently in the future than it has been in recent years.

11. This approach should ensure that the fee remains at an appropriate level. Periodic review will also give LeO an opportunity to understand the impacts the currently-proposed increase will have had on service providers; impacts which may vary according to the size and nature of their organisations, and their area(s) of work. In terms of the Bar, we would be particularly interested to understand the impact on sole practitioners and single-person authorised bodies. We are pleased to learn that LeO is working to understand the profile of those providers that do pay the case fee, and the impacts of it on them. It is important that it reflects on the findings of this work and alters its policies if necessary.

12. We agree that putting in place regular reviews will have a less disruptive effect on legal services providers than infrequent reviews which carry with them the potential for larger case fee increases.

13. Furthermore, as we have previously stated, we broadly agree with the 'polluter pays' principle. Instituting more regular reviews would allow LeO to explore the potential benefits and drawbacks of applying this principle through the case fee.

**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?**

14. As previously mentioned, we are supportive of the plan to implement regular case fee reviews; however we do not fully agree that having a review period of every 5 years is an appropriate level of frequency to review case fee arrangements. We would be concerned that a review period of 5 years could lead to a loss in LeO's case fee income, if, for example inflation is high over that period and the case fee level fails to rise. A review period of every 5 years might create pressure to increase the all-barrister levy when such an increase could have been avoided had the case fee been reviewed. This risk is exacerbated by the time lag between

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<sup>5</sup> [Proposed changes to the Legal Ombudsman's Case Fee Structure.](#)

deciding upon a new case fee and being able to implement it, as LeO has identified. We question whether a more frequent review period, for example, every 3 years, might help address this issue and allow LeO to respond more nimbly to economic changes. Indeed, we would suggest a review period of 3 years strikes a better balance between the potential benefits of regular reviews, the disbenefits (or burden) of reviews which are undertaken too frequently, and the drawbacks which could arise from reviews which are too infrequent.

15. We note that LeO thinks annual reviews may cause confusion about which level of fee applies to which investigation. We would not favour annual reviews, but there ought to be a straightforward rule to identify the applicable case fee. We suggest that it should be determined by the date on which a complaint is received by, or a case file is opened by, LeO.

**Question 4 - Do you agree to the proposed change to the Legal Ombudsman Scheme Rules?**

16. For the reasons set out in the paper, we agree with the proposed change to the LeO scheme rules stipulated at 6.3 to reflect any increase in the case fee level.

**Bar Council**

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For further information please contact:

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