



COMPLAINTS PROCEDURE
FOR CLIENTS
2023-24

INTRODUCTION

Many complaints are not about solicitors' legal knowledge or the quality of advice they give to clients. They are about client care. Everyone within the Company must consciously try to avoid falling into the trap of taking client complaints as accusations of professional negligence because complaining is quite different from threatening action for negligence.

Directors and employees are anxious to do a first-class job for their clients. Most understand that if they get a reputation for being unhelpful, it will damage their long-term prosperity and job satisfaction. They do not want clients to complain about them to the Law Society, Solicitors Regulation Authority (SRA) or supervisor and they dread negative publicity.

The Directors have within this document set out the Company's understanding, views, expectations, requirements and procedure for dealing with client's complaints.

The Solicitors Regulation Authority has implemented outcomes focused regulation (OFR) in October 2011. This has been further supplemented by the Standards and Regulations of November 2019 which includes Codes of Conduct for both individual Solicitors and a separate Code of Conduct for Firms.

Both Codes of Conduct stipulate that clients are given information at the outset of their matter regarding a complaints procedure and how to invoke it.

WHY DO CLIENTS COMPLAIN?

Clients complain because we collectively or individually and when representing the Company have not met their expectations of what they think is a good level of service. Regrettably this is often because we have not

considered or fully understood the level of service the client wanted or expected.

WHAT IS POOR SERVICE?

Poor service (sometimes referred to as "Inadequate Professional Service" or IPS) is any aspect of service that falls short of that which could reasonably have been expected.

The Law Society and SRA regard various common situations as being either **presumptive** or strongly **indicative** of poor service.

Situations regarded as **presumptive** of poor service (and which frequently give rise to awards of compensation) include:

- lack of a client care letter when one is required.
- unreasonable delay in billing or making mistakes on bills or accounts which cause serious inconvenience to the client.
- failure to give costs or rising costs information.
- failure to explain the risks of litigation and failure to carry out a "cost-benefit and risk" analysis at the outset and appropriately during the conduct of the case.
- failure to respond to communications – failure to reply to letters is a clear instance of poor service; failure to return phone calls or reply to faxes and e-mails may depend upon the facts of the case.
- not doing something the solicitor agreed to do.
- failing to comply with the SRA Codes of Conduct
- not treating the client with fairness and respect.
- failure to give information about trials and hearings.
- failure to pay interest.

Issues which are more subjective but which are nevertheless **strongly indicative** of poor service include:

- delay.
- failure to provide written evidence of advice given.
- failure to inform of progress – even where there has not been any.
- failure to update clients on a reasonable basis.
- failure to follow instructions or to explain why instructions have not been followed.
- not abiding by a quote.
- varying substantially from an estimate without prior notification.
- terminating a retainer unsatisfactorily – this can include an inappropriate reason for terminating a retainer as well as the means of termination.
- deceiving or misleading a client – not only clearly a service issue and usually a conduct one as well.

IF YOU RECEIVE A COMPLAINT

If anyone employed by the Company receives a complaint from a client then it is to be handled calmly and in line with the Company's complaints procedure. It must be remembered that failure to follow the principles set out in the Company's complaints procedure can itself be taken as evidence of poor service. It is part of the job of all employees of the Company to deal properly and professionally with complaints, even if they are made after the Company or employees had completed the task the Company had been appointed to do.

MANAGEMENT INFORMATION

The Company's complaints procedure is part of the Company's overall management procedures. In this way the Directors and supervisor can analyse complaints regularly and change the Company's practice and procedures where necessary and importantly involve all employees as necessary. The purpose of such management information is to see why a complaint came about and how to avoid the same complaint in the future. The

Company should view client complaints as a rich source of free feedback about where it may need or has the opportunity to improve.

When analysing complaints the Directors and supervisors should look at:

- the reason for the complaint;
- what did the Company or employee do when the complaint was received;
- the remedy suggested; and
- the client's response.

This kind of analysis (at least every three months) will help the Company prove that it has an effective procedure for handling complaints.

SUMMARY

Complaints arise when clients do not get the service they expect. Clients often complain about service issues such as lack of courtesy or poor communication. Clients rarely complain about the technical quality of legal work.

The Company will not necessarily treat every complaint as a possible negligence case. If in doubt, it will check with its Insurer.

The Company's complaints procedure is part of its approach to client care and the delivery of quality. Everyone within the Company should (Directors, employees and clients) know about the complaints procedure.

Complaints are often urgent. Deal with them quickly before they have time to grow.

Handling complaints is mainly about politeness and consideration. Listen carefully to clients and involve them fully in the process of resolving their complaint. Always aim to treat them as fairly as you would like to be treated yourself.

If you must have the last word, say sorry.

Provided the Company follows the procedures of its complaints policy and keeps proper written records, then it should not need or fear a negative outcome to any investigation by the Law Society, Solicitors Regulation Authority, Legal Ombudsman or other interested body.

TECHNIQUES FOR HANDLING COMPLAINTS

Some Do's and don'ts:

Do

- Be positive, open-minded and honest.
- Be friendly and show the client that their position is understood.
- Make contact with the client as soon as possible.
- Tell the client in detail what steps the Company will take.
- Urgently review the client's complaint to assess what may have gone wrong.
- If possible, involve someone who has not been connected with the matter.
- Consider each complaint, whatever its merits - it can tell you a great deal about how people view the performance of the Company.
- If you think the complaint may not be justified, ask yourself why the client thought they had cause for complaint.
- Consider whether communication with the client was clear, complete, and all it should have been to meet the client's needs and expectations.
- Once the review is complete, see the client immediately. (Clients value face-to-face discussions and they are more 'honest'.)
- Apologise if this seems to be all that is called for, and give any relevant or reasonable assurances.

- If the complaint is justified, the Company is likely to be prepared to offer a reduction in the bill or provide some other professional service.
- If the Company's services have been seriously below standard, it may be prepared to write off the whole bill or most of it.
- If the complaint is not justified or has been caused by a clash of personalities, the Company will consider whether it makes commercial sense to offer a remedy to avoid damaging our reputation.
- The Company will do everything that it can to keep the client (unless there is a good reason for not doing so) and make them happy.
- The Company will learn from the complaint. Understand how it came about, introduce changes to prevent it happening again, and tell the client what it is going to do.
- Any employee can be involved with the handling of a complaint in some way or another and therefore training will be given to make employees aware of things to avoid.
- Always remember that a happy client can recommend up to 5 new clients, a dissatisfied client can lose the Company up to 23 new clients.

Don't

- Be aggressive or defensive, or suffer wounded pride.
- Reject the complaint immediately without a good reason.
- Forget clients are the Company's livelihood and have needs and expectations that everyone should care about.
- Give the impression that only the Company or its employees know all the answers.
- Be critical because the Company's clients expect money as a remedy. Clients are consumers and demand a direct approach.

- Let the client's complaint 'escape' from the Company's office to that of the Law Society, Solicitors Regulation Authority, Legal Ombudsman or other body.

SOLICITORS REGULATION AUTHORITY CODES OF CONDUCT 2019

The Solicitors Regulation Authority Standards and Regulations 2019 and the Codes of Conduct contained therein sets out the level and kind of service that the Solicitors Regulation Authority (SRA), the Law Society and to a degree the Company's professional indemnity insurers expects the Company to deliver to any client. All employees are to read and understand the requirement of their role in the delivery of the required level and kind of service to a client. The Standards and Regulations issued by the SRA in 2019 A copy of the SRA Handbook and Solicitors Code of Conduct 2011 can be found on the Solicitors Regulatory Authority website.

THE COMPANY COMPLAINTS PROCEDURE

The Company has adapted the form of the Law Society's sample complaints policy as its Complaints Procedure for Clients.

THE COMPLAINTS PROCEDURE OF ST HELENS LAW LIMITED

Our complaints policy

The Company is committed to providing a high-quality legal service to all its clients. When something goes wrong it needs you the client to tell the Company about it. This will help the Company to improve its standards.

Who should you contact?

Neil Ryan, Director is responsible for the supervision and management of complaints to the Company. In his absence then an alternate Director should be contacted in the first instance.

Our complaints procedure

If you have a complaint, contact us with the details.

What will happen next?

1. The Company will send you a letter acknowledging your complaint and asking you to confirm or explain the details set out. The letter will also let you know the name of the person who will be dealing with your complaint. A copy of the Company's Complaints procedure for Clients will be enclosed with this letter. You can expect to receive the Company's letter within three working days of the Company receiving your complaint.
2. The Company will record your complaint in its central register and open a separate file for your complaint. The Company will do this within two working days of receiving your complaint.
3. The Company will then start to investigate your complaint. This will normally involve the following steps.
 - i. We will pass your complaint to Mr Neil Ryan, the Company's Client Care Director, within three working days.
 - ii. He will ask the member of staff who acted for you to reply to your complaint within five working days.
 - iii. He will then examine their reply and the information in your complaint file. And, if necessary, he may also speak to them. This will take up to three working days from receiving their reply and the file.
4. Mr Ryan will then invite you to a meeting or will contact you to discuss and hopefully resolve your complaint. This will be done within three working days.
5. Within two working days of the meeting or having spoken with Mr Ryan, Mr Ryan will write to you to confirm what took place and any solutions he has agreed with you. If you do not want a meeting or it is not possible, Mr Ryan will send you a detailed reply to your complaint. This will include his suggestions for resolving the matter. Mr Ryan will do this within five working days of completing the investigation.

6. At this stage, if you are still not satisfied you contact the Company again. The Company will then arrange to review our decision. This will happen in one of the following ways.
 - i. Another Director of the Company will review Mr Ryan's decision within ten working days.
 - ii. The Company will ask our local Law Society or another local firm of solicitors to review your complaint within five working days. The Company will let you know how long this process will take.
 - iii. The Company will invite you to agree to independent mediation within five working days. The Company will let you know how long this process will take.

7. The Company will let you know the result of the review within five working days of the end of the review. At this time the Company will write to you confirming its final position on your complaint and explaining its reasons.

In the event that the Company needs to change any of the timescales above, it will let you know and explain why. We aim to resolve a complaint within eight weeks of a complaint being made to the Company.

The Company is entitled to regard your complaint as closed (resolved) once a period of six months has passed without there having been any further correspondence or discussion regarding your complaint between you and the Company from the date of the letter to you as referred to in paragraph numbered 7 above.

CEASING CORRESPONDENCE AND CLOSING A COMPLAINT

The Company may cease correspondence with you about a complaint and regard your complaint as closed if the Company is satisfied that one or more of the following has occurred:

- The Company has given you the information about how to formally make your complaint to the Company and / or Legal Ombudsman.
- You have received from the Company a written acknowledgement of receipt of your complaint to the Company.
- You have been provided with a copy of the Company's Complaints Procedure for Clients.
- You have not provided information or further information that the Company has requested from you in respect of your complaint in order that the Company can fully investigate and seek to resolve your complaint.
- You have not responded for a period of six calendar months from the last written correspondence or request for information or response sent to you by the Company in respect of your complaint/s.

Please be advised that making a complaint to the Company will not prevent the Company from taking legal action against a client for the recovery of fees, costs or disbursements due to the Company following the Company ceasing to correspond with you about your complaint.

If you, the complainant, are not satisfied with the Company's handling of your complaint you can ask the Legal Ombudsman (LeO) to consider the complaint.

MAKING YOUR COMPLAINT TO THE LEGAL OMBUDSMAN (LeO)

You will normally need to bring a complaint to the LeO within certain time limits as defined by the LeO. Ordinarily, the complainant must refer the complaint to the LeO no later than,

- One year from the act/omission, or
- One year from when the complainant should reasonably have known there was cause for complaint

In relation to the above,

- Where a complaint is referred by a personal representative or beneficiary of the estate of a person who, before they died, had not referred the complaint to the LeO, the period runs from when the deceased should reasonably have known there was cause for complaint, and
- When the complainant (or the deceased) should reasonably have known there was cause for complaint will be assessed on the basis of the complainant's (or the deceased's) own knowledge, disregarding what the complainant (or the deceased) might have been told if they had sought advice

If an ombudsman considers that it is fair and reasonable in all the circumstances, they may extend any of these time limits to the extent that they consider fair. They may extend a time limit if the complainant was prevented from meeting the time limit as a result of serious illness, and is likely to extend a time limit where the time limit had not expired when the complainant raised the complaint with the authorised person

The full contact details for contacting the Legal Ombudsman (LeO) can be found at the end of this document and within the Company's Terms and Conditions of Business originally sent to you by the Company with its Letter of Engagement at the outset of your case.

The LeO will accept complaints from prospective clients where:

- a person has unreasonably been refused a service.

- persistently or unreasonably been offered a service that they do not want.

In the first case, the complainant will have to produce prima facie evidence that:

- there was no legitimate reason for the refusal to provide the service, and
- there has been a financial loss or that they have been unreasonably inconvenienced by the refusal.

Legitimate reasons for refusing to provide a service include lack of expertise or concerns about money laundering.

Where the Company has not provided a service, the LeO would not normally expect the full complaints procedure to be followed. Instead a short explanation of why the Company has refused to act should be sufficient. The Company will also signpost the client to the LeO.

If, however, the Company finds evidence that there was no legitimate reason for refusal of service then the complainant should be dealt with via the normal complaints handling procedure of the Company.

MODEL CENTRAL COMPLAINTS REGISTER

The Company maintains a central complaints register the content of which should include:

- a complaint reference number;
- the date of the complaint;
- the name of the client;
- the name of the member of staff involved;
- a general description of the complaint;
- the date of any internal meeting and the names of those present;
- the date the file was examined;

- the date of any meeting with the client;
- an indication of whether the complaint is justified;
- the reasons for the complaint;
- details of any suggestions to resolve the complaint;
- the dates of any letters confirming details or suggestions;
- the date of any review and the result of the review;
- the date of the final letter;
- the date the file was closed; and
- action, if any, to be taken internally as a result of the complaint.

A GUIDE TO COMPENSATING CLIENTS

As previously mentioned, one of the ways in which the Company may try to resolve a client's complaint is to offer compensation.

However, deciding how much to offer can be perplexing. The aim of this section is to help determine a level of compensation that would be in line with those required (or previously awarded) by the Legal Ombudsman.

This should not only help to prevent a client wanting to complain to the Legal Ombudsman but also, if the client does so, minimise the chances of a formal adjudication (award) against the Company.

It is important to keep in mind, though, that the payment of compensation is only one of the options for dealing with a complaint about poor service. Others are to:

- reduce or cancel the Company's costs.
- at the Company's expense, rectify any errors or omissions.
- also at the Company's expense, do what is necessary to protect a client's interests.

If the complaint came to be adjudicated by the Legal Ombudsman, the Company may be required to take one or more of those steps.

The Legal Ombudsman can also order solicitors to pay compensation up to a limit of currently £50,000. This applies where the complaint has come from the client in relation to:

- compensation for loss suffered
- compensation for inconvenience / distress
- the reasonable cost of putting things right, and
- the reasonable cost of any specified action in the interests of the complainant.

Any **financial loss** must have been directly caused by the poor service. The client must be able to identify what caused the loss, its amount, and provide reasonable evidence of the loss.

An award for **distress and inconvenience** is intended to provide a tangible, if limited, redress for the effects of the poor service on the client. It is meant to be an expression of regret. It is not the same as damages that could be awarded by the Court and it is not intended to be a substitute for any legal rights or remedies that may be available through the Courts. The Legal Ombudsman is not a substitute for the Court system, especially when allegations of serious professional negligence are made. However, the Legal Ombudsman has the discretion to investigate complaints against solicitors in circumstances where the client can also take legal action. If it is found that it would not be reasonable for any solicitor to give such wrong advice or take such action then the Legal Ombudsman may reduce the bill or order the payment of compensation.

There are no rigid distinctions between poor service and negligence. It is often merely a question of degree; sometimes the same facts can give rise to a finding both of poor service and negligence.

The term **distress and inconvenience** is intended to convey that there has been an adverse effect on the client's general well being. It must have been the poor service and not the case generally, which has caused it.

Distress includes genuine worry, concern, embarrassment, anxiety, disappointment and loss of some reasonable expectation. This varies from minor annoyance at one end of the scale to anxiety sufficient to produce medical symptoms, such as depression or insomnia, at the other. The client's susceptibility to distress may also need to be considered. If the solicitor knew the client suffered from anxiety but ignored it, this might be a factor, as might a client who without warning over-reacted to a minor situation.

Inconvenience usually represents time and/or effort spent by the client that would not have occurred had the service been of a proper standard.

How much is awarded for distress and inconvenience?

There is no simple tariff or scale. Each case is assessed on its merits. Inevitably, factors relating to the case will be relevant, and there will be a degree of subjectivity which may include factors such as the behaviour and actions of both the client - complainant and the solicitor.

The status of the Company, or its ability to meet any costs or compensation awards made, will generally not affect the level of the award. The Company's size and sophistication may be relevant in so far as it relates to the quality of service that it would be reasonable to expect from it.

In assessing the level of award, the effect of the poor service upon the client is categorised into one of four groups:

- modest
- significant
- serious
- extremely serious

Modest cases are those where the poor service had only limited effect on the client. Often, they arise from a single error or lapse which ideally should not have occurred but which the solicitor acknowledged and tried to remedy.

Significant poor service will have had a more serious, but passing, effect on the client. For the client the poor service will have caused worry, concern or annoyance. The client will have been clearly upset and/or inconvenienced, but the effect will have been limited in duration or severity.

Serious cases, in the view of the Legal Ombudsman, are those which have a serious effect on clients, probably over a significant period of time. This would include cases where quality of life will have been considerably, or even severely, disrupted.

Extremely Serious cases, in the view of the Legal Ombudsman, are those which have a severe effect on clients, possibly over a long period of time or with permanent effects. Although the Legal Ombudsman can award substantial compensation, it will always be within the maximum level that it can award of £50,000.

How is compensation assessed?

Assessments will need to be subjective – taking account of all of the factors. The Company's actions, and those of the client – complainant and the effect of the poor service on the client, will all be relevant.

The main factor in assessing the award is the **effect** of the poor service on the client. Some clients are more vulnerable and disadvantaged than others. The Company should take this into account in all its dealings with them, including when handling their complaints. Dealing with a complaint in an unreasonable manner may cause the client to become more distressed, and this can lead to a higher award.

Anything that the Company may already have done to address the complaint - perhaps giving a credit note against fees or offering to take further action at no charge - will be taken into consideration. If appropriate, this may result in no further compensation being awarded.

However, it should be stressed that the award of compensation is not a “punishment” for the Company – it is what it says it is, compensation for poor service.

Deciding how much compensation to offer

Although there is no tariff, the Company can usually get a fairly realistic view of the level of award that the Legal Ombudsman would probably make by looking at past awards. Details of these awards can be viewed by reference to the Legal Ombudsman’s website or by contacting them directly.

Before the Company uses any example, it must consider the following points:

First, identify why the client thinks the Company’s service was inadequate. Is the Company aware of any shortcomings and if so, have these been acknowledged? Try and see the complaint from the client's point of view. Were the client’s expectations unreasonably raised? Did the Company explain the process that would be used in the case clearly? Did the Company follow up any complex, key or difficult advice in writing? Bear in mind that the client may never have been in a situation like this before and may not have known what to expect. Did the Company explain clearly what was expected of its client or did the Company assume that the client would know?

Secondly, consider the likely effect of the inadequate service on the Company’s client. Try to view and consider the client's position and consider how he or she would probably react when faced with this problem. How would the Company have reacted if it had been treated in the same way? Has the client over-reacted to the problem or inconvenience? If so - why? Is it because he or she is vulnerable or disadvantaged, or is there another reason why they want to make so much out of the issue? If the client was vulnerable or disadvantaged, did the Company know this during the course of the retainer and, if so, did the Company take this into account in all dealings with the client? If not, why not?

Third, look at how the complaint was handled. Did the Company follow the correct procedures? Did the Company acknowledge any shortcomings in the provision of its service and did it offer to put the problem right, reduce the fees or pay compensation? If the Company did not accept the complaint made, did the Company explain this in a way the client understood? Did the Company have, or offer to have, a meeting with the client?

Fourth, having looked at these matters, look at the problem and situation from the position of an independent person considering the complaint. Within which category would that person place this matter and, within that category, how serious would it be regarded?

Above all, remember that the Legal Ombudsman requires solicitors to do their best to conciliate complaints. If the Company is seen to have made a real effort to resolve the problem that will count in the Company's favour if there is a formal adjudication.

LEGAL OMBUDSMAN

The Legal Ombudsman (LeO) deals with complaints against lawyers and operates independently of The Law Society. In the event that you are not satisfied with the Company's handling and reply to your complaint you may contact the LeO by letter addressed to: PO Box 6806 Wolverhampton WV1 9WJ, by telephone on number: 0300 555 0333, by email at: enquiries@legalombudsman.org.uk , or by visiting the website at: www.legalombudsman.org.uk .LeO Scheme Rules updated 1 April 2023.

The services of the LeO are confidential and free to use. Each case is looked at impartially and the LeO tries to find a solution that is acceptable to everyone concerned.

If your complaint has not been resolved to your satisfaction within eight weeks of it being made to the Company then you can ask the LeO to consider it.

The LeO has defined time limits for accepting complaints as previously explained.

USEFUL CONTACT DETAILS

Mr Neil Ryan, Director with responsibility for handling client complaints:

Letter to: Mr Neil Ryan, Director
The Enterprise Centre
Salisbury Street, Off Chalon Way
WA10 1FY
Letters may be marked "Private & Confidential".

Telephone Direct Dial: 07938 983657.

Email: Neil.Ryan@sthelenslaw.co.uk

The Legal Ombudsman - LeO:

Letter to: PO Box 6806
Wolverhampton
WV1 9WJ.

Telephone Helpline: 0300 555 0333.

Email: enquiries@legalombudsman.org.uk

Website: www.legalombudsman.org.uk

Solicitors Regulation Authority (SRA):

Letter to: Solicitors Regulation Authority
The Cube
199 Wharfside Street
Birmingham
B1 1RN

Telephone: 0870 606 2555.

Email: Contactcentre@sra.org.uk

Document: Complaints Procedure for Clients