
Complaints procedure

1. General

- 1.1. **Neil Donald** is the person responsible for the Complaints Handling Procedure unless the complaint relates to Neil Donald in which case **Sarah Cousins** or **Emma Halpin** will deal with the complaint.
- 1.2. As required by The Solicitors' Regulation Authority, we have a procedure for dealing with complaints from clients. We try to resolve as many as possible within the Practice to stop complaints escalating to The Legal Ombudsman and preserve the goodwill of the client; even if things have gone wrong.
- 1.3. We acknowledge that some of the complaints about us will be well founded. We all make mistakes and a lawyer should be honest and candid when a mistake has been made. Complaints must be dealt with sympathetically and quickly; the Practice's reputation depends on this.

2. What Constitutes a Complaint?

- 2.1. A complaint is any expression of client dissatisfaction which the fee earner is unable immediately to resolve. For example, if a client simply complains that it has taken 30 minutes to return a call; clearly this does not amount to a 'complaint'. However, if a client complains that there is continual delay in returning calls or that calls are not returned at all; that constitutes a complaint. Further, as mentioned in our client care letter, clients always have the right to challenge or complain about our bill.
- 2.2. We call them 'formal' complaints, and we treat them all in the same way even if an individual complaint may appear to be based on, for example, an unrealistic expectation of what we can do.
- 2.3. Clients are notified in our client care letters that they have a right to complain. If they do complain, they must be given a copy of this complaints procedure.
- 2.4. **Neil Donald** will look objectively at the file, and ask for full details from the client either in writing or by interview.
- 2.5. Once a complaint has been made, the person complaining will be told in writing how the complaint will be handled and in what time they will be given an initial response and that a substantive response will be given within 8 weeks. The whole object is to ensure that the client:-
 - 2.5.1. is satisfied that the complaint has been dealt with seriously;
 - 2.5.2. gets a prompt response;
 - 2.5.3. an assurance that the matter is being reviewed;
 - 2.5.4. is notified as soon as possible of the outcome.

- 2.6. The client may not be lost to the Practice. Even though a lawyer may not agree that the complaint has any validity, the response from the Practice may be to agree with some elements of the complaint and to assure the client that an effort will be made to remedy the problem.
- 2.7. In the event that the immediate investigation results in being unable to remedy the complaint then the client's right to refer the matter to the Legal Ombudsman should be restated.

3. Remedies Open to the Client.

- 3.1. As a matter of course and after prior liaison with our professional indemnity insurers where appropriate, we will make an apology on behalf of the Practice and an assurance that the problem will not occur again, and that we will try to do better. If a complaint is justified we:
 - 3.1.1. May make a reduction in the bill;
 - 3.1.2. May make an abatement of the bill in total;
 - 3.1.3. Will notify the client again of their right to complain to the Legal Ombudsman and remind the client of the Legal Ombudsman's full contact details:
 - 3.1.3.1. telephone - 0300 555 0333
 - 3.1.3.2. postal address - PO Box 6806 Wolverhampton WV1 9WJ
 - 3.1.3.3. email - enquiries@legalombudsman.org.uk
 - 3.1.3.4. website address - www.legalombudsman.org.uk
- 3.2. We will notify the client of their right to see another solicitor and obtain advice as to whether we have been negligent.

4. What Happens After a Complaint?

- 4.1. Hopefully the client will be satisfied and the Practice will continue with the file. In some circumstances, if the solicitor/client relationship has broken down completely, it may be better for another Practice to take the file over. It is the responsibility of **Neil Donald** to make this decision. If the original lawyer does continue with the file, every effort must be made to repair any damage in the relationship with the client.

5. Time Periods for Dealing with the complaint

- 5.1. There is a time period within which the Practice must resolve the complaint to the satisfaction of the client, usually 8 weeks. This is very important as the client has the right to refer the matter to the Legal Ombudsman if we have not responded satisfactorily within the 8 weeks or if they are otherwise unhappy - see below).
- 5.2. It is the responsibility of **Neil Donald** to diarise the 8 week and all other complaints periods. However, there are exceptions and additional detail to these basic time limits, available on the Legal Ombudsman's website.

6. When complaints can be referred to the Legal Ombudsman

6.1. Ordinarily, a complainant cannot use the Legal Ombudsman unless the complainant has first used the authorised person's complaints procedure but a complainant can use the Legal Ombudsman if.

6.1.1. The complaint has not been resolved to the complainant's satisfaction within eight weeks of it being made to the authorised person; or

6.1.2. An ombudsman considers that there are exceptional reasons to consider the complaint sooner, or without it having been made first to the authorised person; or

6.1.3. Where an ombudsman considers that in-house resolution is not possible due to irretrievable breakdown in the relationship between an authorised person and the person making the complaint.

6.2. For example, an ombudsman may decide that the Legal Ombudsman should consider the complaint where the authorised person has refused to consider it, or where delay would harm the complainant.

6.2.1. Ordinarily, a complainant must refer a complaint to the Legal Ombudsman within twelve months of the date of the authorised person's written response, if that written response prominently included:

6.2.1.1. An explanation that the Legal Ombudsman was available if them;

6.2.1.2. Complainant remained dissatisfied; and

6.2.1.3. Full contact details for the Legal Ombudsman and a warning that the Complainant must be referred to the Legal Ombudsman within twelve months.

6.3. Time limit from act/omission

6.3.1. Ordinarily, a complainant must also refer a complaint to the Legal Ombudsman within:

6.3.2. Six years from the act/omission; or

6.3.3. Three years from when the complainant should reasonably have known there was cause for complaint without taking advice from a third party; or

6.3.4. Whichever is Later.

6.3.4.1. When the complainant should reasonably have known there was cause for complaint will be assessed on the basis of the Complainant's own knowledge, disregarding what the complainant might have been told if he/she had sought advice.

6.4. Ombudsman extending time limits

- 6.4.1. If an ombudsman considers that there are exceptional circumstances he/she may extend any of these time limits to the extent that he/she considers fair.
- 6.4.2. For example, an ombudsman might extend a time limit if the complainant was prevented from meeting the time limit as a result of serious illness or where the time limit had not expired when the complainant raised the complaint with the authorised person.
- 6.4.3. Not all clients are eligible to have recourse to the Legal Ombudsman. We now set out an extract from the Legal Ombudsman's website regarding Eligibility to have recourse to the Legal Ombudsman:

7. Who Can Complain

- 7.1. A complainant must be an individual; or
 - 7.1.1. An enterprise which, at the time at which the complainant refers the complaint to the respondent,
 - 7.1.2. is a micro-enterprise within the meaning of Article 2 (1) and (3) of the Annex to Commission Recommendation 2003/361/EC, as that Recommendation had effect at the date it was adopted;
 - 7.1.3. A charity with an annual income net of tax of less than £1 million at the time at which the complainant refers the complaint to the Respondent;
 - 7.1.4. A club, association or organisation, the affairs of which are managed by its members or a committee or committees of its members with an annual income net of tax of less than £1 million at the time at which the complainant refers the complaint to the Respondent;
 - 7.1.5. A trustee of a trust with an asset value of less than £1 million at the time at which the complainant refers the complaint to the Respondent
 - 7.1.6. A personal representative of an estate of a person; or
 - 7.1.7. A beneficiary of an estate of a person.
- 7.2. For (7.1.5) and (7.1.7) the condition is that the services to which the complaint relates were provided by the respondent to a person -
 - 7.2.1. Who has subsequently died; and
 - 7.2.2. Who had not by his or her death referred the complaint to the Ombudsman scheme.

8. Central Register of Complaints.

- 8.1. All complaints must be notified to **Neil Donald** who keeps the central register of complaints received by the Practice. The notification should outline the complaint and attach the original of any letter of complaint if one exists.

- 8.2. Where complaints are substantiated, it may be that some form of corrective action needs to be taken to ensure, as far as possible, that the circumstances do not occur again. **Neil Donald** should identify the cause of any problems and consider whether changes in procedures are necessary, or whether the member of staff concerned in a particular issue has additional training needs.
- 8.3. **Neil Donald** conducts an annual review in the month of October of complaints data and trends, which forms part of the review of risk. and an opportunity to revise any defective procedures or policies identified as or associated with the root cause of the complaint.