

# First-tier complaints handling

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Guidance on first-tier complaint handling

Requirements under s 112(2) of the Legal Services Act 2007

**May 2010**

## Legal Services Act 2007 s 112(2) requirements

The LSB has specified a requirement that:<sup>1</sup>

Approved regulators must require all individuals and entities they regulate to notify all clients in writing:

- a. at the time of engagement, or existing clients at the next appropriate opportunity, of their right to make a complaint, how and to whom this can be done (including their right to complain to the Legal Ombudsman at the conclusion of the complaint process, the timeframe for doing so and full details of how to contact the Legal Ombudsman); and
- b. at the conclusion of the complaint process of their right to complain to the Legal Ombudsman, the timeframe for doing so and full details of how to contact the Legal Ombudsman.

This guidance may be updated from time to time.

## Outcomes from first-tier complaints handling

We expect approved regulators to achieve the following outcomes when regulating first-tier complaints:

Consumers have confidence that:

- complaint handling procedures provide effective safeguards for them; and
- complaints will be dealt with comprehensively and swiftly, with appropriate redress where necessary.

## Achieving the complaints handling outcomes

### *Consideration of complaints*

We consider that a complaint means an oral or written expression of dissatisfaction which alleges that the complainant has suffered (or may suffer) financial loss, distress, inconvenience or other detriment.<sup>2</sup>

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<sup>1</sup> Section 112(2)

<sup>2</sup> This is consistent with the Legal Ombudsman's definition. If this changes then we would expect ARs' guidance to remain consistent with the change

First-tier complaint handling processes must be convenient and easy to use (in particular for those that are vulnerable or have disabilities). They should make provision for complaints to be made by any reasonable means. The way in which complaints are dealt with must be transparent and clear in relation to process, well publicised and free. The process itself should be prompt and fair, with decisions based on a sufficient investigation of the circumstances. Where appropriate, there should be an offer of a suitable remedy.

### *The Legal Ombudsman*

Most consumers will be able to make a complaint to the Legal Ombudsman about the services they received after they have exhausted first-tier complaints processes. Therefore approved regulators should ensure that those they regulate provide sufficient information to all consumers to enable them to identify whether they do have a right to take their complaint to the Legal Ombudsman and to contact the Legal Ombudsman direct to clarify whether they can.

We consider that it is appropriate to let existing clients know of their rights in relation to complaints if that client enters into new terms with the firm or if they make a complaint. We agree that it is not proportionate for there to be a requirement to notify clients who have no further contact with the law firm. For the avoidance of doubt, we do expect consumers who are “mid-contract” to be notified of their right to complain.

We expect approved regulators to work with the Legal Ombudsman to develop information for consumers.

### *Monitoring and enforcement*

Approved regulators should ensure that those they regulate understand their responsibilities in relation to first-tier complaints handling and are appropriately held to account for their performance. This means that approved regulators must be able to effectively and efficiently identify good practice and be able to address systemic and specific issues in first-tier complaints handling. This will require appropriate monitoring and data gathering systems. Where problems are identified, appropriate regulatory action should be swift.

### *Guidance to barristers*

When a self-employed barrister is instructed by a solicitor (or other similar circumstances) consumers must be told how to make a complaint about the barrister (as well as the information they will already have about their solicitor’s complaint process). It is not sufficient that the information is simply available to consumers – there is a positive obligation for barristers to provide it. This will enable the consumer to make the complaint direct to Chambers and will assist with ensuring Chambers and

barristers receive complaints and encourage resolution of them. Information about the Legal Ombudsman must be provided in the same way as for other complaints. If one complaint is made that in practice concerns both a solicitor and a barrister we expect them to agree how it should be considered with the aim of minimising inconvenience and delay to the consumer.