

Legal Services Board

First-tier complaints handling: LSB requirements for approved regulators

A response by
CILEx Regulation

26 April 2016

Introduction

1. This response represents the views of CILEx Regulation, the regulatory body for Chartered Legal Executives, CILEx Practitioners, CILEx Authorised Entities and individuals in other grades of CILEx membership.
2. The Chartered Institute of Legal Executives (CILEx) is the professional body representing 20,000 individuals comprised of Fellows (Chartered Legal Executives) and individuals in other grades of membership. CILEx is an Approved Regulator under the Legal Services Act 2007.
3. Fellows, Associate Prosecutor members of CILEx, and CILEx Practitioners are authorised persons under the Legal Services Act 2007.
4. CILEx Regulation's regulated community is unique because different redress is available to consumers depending on the type of regulated individual who provides the legal services. The redress available also depends on who the individual is employed by.
5. Complaints about service must initially be made at first-tier, which is to the legal service provider or firm. The firm then has eight weeks from the making of the complaint to resolve it.
6. If the complaint has not been resolved to the complainant's satisfaction, the complaint can be taken to the Legal Ombudsman if the legal service was provided by: a Chartered Legal Executive or a CILEx Practitioner regardless of the firm they work in; or an employee of a CILEx Authorised entity.
7. If the legal services provider was an individual in a membership grade of CILEx other than a Fellow and they were working in either: a CILEx Authorised Entity, or a firm regulated by another approved legal regulator, a service complaint can be taken to the Legal Ombudsman.
8. If the legal services provider was an individual in a membership grade other than a Fellow and was not working in a firm regulated by an approved legal regulator, then the service complaint can only be referred to CILEx Regulation.
9. Complaints about conduct of all CILEx members, including Fellows; CILEx Practitioners; and CILEx Authorised Entities, can be referred to us. Any complaint, relating to either service or conduct, must be referred to us within 12 months of the complaint arising or the date on which the complainant should reasonably have been aware of the problem.

10. We address the requirements of the range of members in our regulated community, by providing appropriate guidance in a clear and succinct manner to our regulated community.

Proposed changes to requirements and outcomes for ARs

Proposed changes to requirements

11. The revised s112 (2) requirements reflect that the current first-tier complaints handling and signposting requirements have been in place for over five years. We believe that the changes in presentation in this section improve the understanding of the requirements.

Proposed revised guidance for achieving outcomes

Guidance for authorised persons

12. The CILEx Code of Conduct sets out the requirement that clients are informed about the complaints procedure including the right to refer a complaint to the Legal Ombudsman, or CILEx Regulation where appropriate. We provide guidance for our regulated community alongside the Code of Conduct. We keep this under review and will revisit following finalisation of the LSB guidance. It is helpful that we are free to amend our guidance, where there is no change to our regulatory arrangements. We welcome the LSB's approach enabling us to reflect the current best practice and flexibility in communicating with clients. We are currently collaborating with the other regulators to conduct research into client care letters, including consumer focused communication.

13. We understand that the reference to consumers being able "to identify whether they do have a right to take their complaint to the Legal Ombudsman" relates to consumers understanding that they do not have to accept the first-tier complaint decision and, if they are not content with this, they have the right to take their complaint to the Legal Ombudsman.

Gathering, analysing and responding to first and second-tier data

14. We recognise the need to focus on gathering and analysing first-tier complaints data and we will refer to our work on this below. We understand that the approach we have taken towards this is recognised as assessing "the effectiveness of approved persons' complaints handling procedures."

15. Whilst we review the Legal Ombudsman's statistics and information on second-tier complaints, because they report at firm level we do not receive information directly about our regulated community. In order to understand second-tier complaints data for our authorised persons, we would need to work with the Legal Ombudsman on how they record and present information about complaints. They currently do not report complaints at authorised person level. With greater opportunities for authorised persons working in different regulated firms, including ABS, we would welcome the opportunity to gain more detailed information to support our regulated members and improve service for consumers.

Evidence demonstrating how the complaints handling outcomes are being delivered for consumers

16. We carry out an annual First-tier Complaints Handling survey. Survey participants are identified from the members of our regulated community who indicate, in their annual membership renewal, that they received a complaint in the preceding 12 months. The survey was moved on-line to make easier responding to the survey and analysing the data. The survey has been running for four years. This has enabled us to build up a bank of data; identify trends in complaints; and secure information about complaints procedures. We publish the survey information in reports on our website and highlight learning points to our regulated community through CILEx Journal articles and electronic newsletters.

17. The information gathered in the survey is also considered within the work of our strategic risk committee to inform any changes to our risk framework. This helps to shape our assessment of risks in applicant entities. The strategic risk committee has also suggested additional information to be gathered within the survey to inform both their work and that of the consumer team.

18. The entity team has also used the information gained from the First-tier Complaints Handling survey to provide advice within the CILEx Journal on steps members can take to avoid the most frequently occurring complaints.

19. We run a client survey which allows us to capture feedback directly from clients of our regulated community. The survey is hosted on our website and the Legal Choices website. Through the survey, we collect evidence about service; details about information provided to clients; and complaints. The survey data is analysed and a report published on our website. We also highlight the information to our regulated community through CILEx Journal articles and newsletter articles. In this way we are improving outcomes for consumers.

20. We draw members' attention to information published by the Legal Ombudsman (for example this year's complaints case studies publication: Learning from complaints) in CILEx Journal articles and electronic newsletters. In addition, we use the Legal Ombudsman's publications to support advice we provide directly to members and firms on customer service, complaint handling and costs.

21. We have liaised with the Legal Ombudsman, who is commencing work to better understand first-tier complaints. We have included some questions in our 2016 First-tier Complaints Handling survey on their behalf to capture information: relating to the dropout rate between the first-tier complaints handling process and referral to the Legal Ombudsman; about the gap between the firm and Legal Ombudsman's views on complaints; and to understand practitioners' appetite for additional best practice information.