

## Categorisation of complaints

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## **Introduction**

Complaints received by the Legal Ombudsman will be categorised by:

- A. The scope of the complaint
- B. The area of law concerned

The purpose of this document is to give an overview of how the Legal Ombudsman's complaints categorisation will work operationally.

The Legal Ombudsman aims to get to the heart of a complaint; this is reflected by our categorisation. For example, a complaint that a lawyer took 18 days to return one phone call, took 27 days to set up an appointment and took a further 9 days to confirm in writing what was said at a meeting would be categorised as a complaint about delay, rather than separately categorising each instance of delay.

### **A. The scope of the complaint**

The following categories will be used to define the scope of the complaint:

1. Potential conduct
2. Costs information deficient
3. Delay
4. Discrimination
5. Failure to advise
6. Failure to comply with agreed remedy
7. Failure to follow instructions
8. Failure to investigate complaint internally
9. Failure to keep informed
10. Failure to keep papers safe
11. Failure to progress
12. Discourtesy
13. Failure to reply
14. Failure to release file or papers
15. Other (free text entry)

Each of the categories set out above are defined further below, with examples given of the types of complaint which could come under each category. The examples are not intended to be exhaustive, but merely demonstrate the scope under which different complaints could be categorised.

#### **1. Potential Conduct**

This category will cover complaints where an element of the complaint, or the lawyer's behaviour, is deemed to potentially constitute professional misconduct. The Legal Ombudsman does not have the jurisdiction to investigate conduct issues, and where potential professional misconduct is identified this is referred to the appropriate Approved Regulator (AR). The AR will then decide whether the potential misconduct identified requires further investigation. Conduct issues will often accompany another complaint category concerning the lawyer's service.

Example:

A consumer contacts the Legal Ombudsman to report that he was quoted legal fees of £1,000, but was charged £3,000. In addition, he paid £750 to the lawyer on account which appears to have been deducted from the lawyer's client account and moved into office account for no apparent reason. No credit was made on the final bill for this payment on account. In this example, the Legal Ombudsman would investigate the service complaint of deficient costs information, but would refer to the AR potential misconduct.

## **2. Costs information deficient**

This category will cover complaints where it is reported that the lawyer did not provide adequate costs information, or where final costs exceeded the information given.

Example:

A consumer contacts the Legal Ombudsman to report that her lawyer had quoted legal fees of £500 plus VAT and disbursements to act in a house purchase. No further costs information was given, but at completion of the purchase the lawyer's bill was for £1,250 plus VAT and disbursements.

## **3. Delay**

This category is for complaints where a consumer reports that the service provided by a lawyer has caused a matter to go on for longer than it otherwise would have done.

Example:

A consumer contacts the Legal Ombudsman to report that he instructed his lawyer to accept a defendant insurers' offer on 15 February, but the lawyer did not communicate this to the insurer until 4 April.

## **4. Discrimination**

This category is for complaints where a consumer reports that the basis for the poor service received is one of discrimination. In practice, where the Legal Ombudsman felt that there was evidence of this, any discrimination would also be referred to the appropriate AR as a conduct issue.

Example:

A consumer contacts the Legal Ombudsman to report that her lawyer did not offer access to the office for disabled clients, and had refused to see her at a more accessible venue, such as her home. The consumer alleges that the lawyer had sent her a letter saying it was "her problem if she couldn't climb the stairs to get to the office".

## **5. Failure to advise**

This category is for complaints where it is reported that the lawyer did not provide legal advice which would reasonably have been expected.

Example:

A consumer contacts the Legal Ombudsman in relation a conveyancing transaction. He had instructed a lawyer to act in the purchase of a property. Upon moving into the property he found that his driveway was shared with a neighbour. His lawyer had not advised him about this.

#### **6. Failure to comply with agreed remedy**

This category is for complaints where the lawyer has already agreed with the consumer how to resolve the issue, but has then failed to implement the remedy.

Example:

A consumer complained to a lawyer about poor service. The lawyer agreed to reduce his bill by £250 as a remedy. However, when sending the final bill to the consumer there was no discount. The lawyer said that he no longer felt that it was appropriate as subsequently extra work had been required in the matter.

#### **7. Failure to follow instructions**

This category is for complaints where it is reported that a consumer's instructions have not been followed.

Example:

An owner of a micro-enterprise was being sued by a third party in relation to personal injury suffered at his premises. The owner instructed a lawyer to defend the matter. During the course of the case the owner instructed the lawyer that he would be prepared to settle the case if the claimant would accept "£3,000, but no more than £3,000". The lawyer offered this amount to the claimant's lawyer, but it was rejected. Without seeking any further instructions from the owner of the business, the lawyer then increased the offer to £4,500 and the claimant agreed to settle the case on that basis.

#### **8. Failure to investigate complaint internally**

This category is for complaints where it is reported that the lawyer has failed to implement a first tier complaints handling policy.

Example:

A consumer raises her service complaint with her lawyer. The lawyer writes back to her to say that it is not his policy to investigate complaints, and if she is unhappy then she should commence proceedings against him in the Court.

#### **9. Failure to keep informed of progress**

This category is for complaints where it is reported that a lawyer has not kept his/her client informed of progress.

Example:

A consumer reports that he instructed a lawyer two years ago to act in his divorce. He did not receive any letters from the lawyer to inform him of the stage the divorce was at. He only found out that his decree nisi was to be granted next week when he bumped into his estranged wife in the supermarket who informed him of this.

#### **10. Failure to keep papers safe**

This category is for complaints where it is reported that a lawyer has lost a client's papers.

Example:

A lawyer was keeping a consumer's property deeds for safekeeping. When the consumer contacted the lawyer to ask for the deeds he was told that they could not be traced and must have been lost during an office move a couple of years earlier.

#### **11. Failure to progress**

This category is for complaints where it is reported that a lawyer has failed to act as would reasonably be expected in moving a client's case forwards.

Example:

A consumer reports that he instructed a lawyer to sue a third party for a debt owed. Proceedings were issued in the local County Court, but the lawyer did not comply with any of the direction dates given by the Court and ultimately the case was struck out.

#### **12. Discourtesy**

This category is for complaints where it is reported that a lawyer has displayed discourtesy towards a client.

Example:

A consumer reports that having arranged an appointment with a lawyer and travelling to the lawyer's office, he was then told that the appointment was cancelled because a more important earlier meeting which the lawyer was engaged in had over-run. The consumer was not told about this until he was in the lawyer's waiting room.

#### **13. Failure to reply**

This category is for complaints where it is reported that a lawyer has not replied to a client's letters, telephone messages or emails.

Example:

A consumer reports that she has not heard from her lawyer regarding her personal injury case for eight months, despite sending a number of letters and emails, and leaving telephone messages.

#### **14. Failure to release files or papers**

This category is for complaints where it is reported that a lawyer will not release a client's file, or papers.

Example:

A consumer reports that after initially being represented by firm A in a personal injury claim, she went on to instruct firm B in relation to potential professional negligence as she was not happy with the advice given by firm A. However, firm A refused to release the consumer's file to firm B. This meant that firm B were unable to offer any advice to the consumer.

#### **15. Other**

If we find that we receive a complaint which does not sit neatly within one of our pre-existing categories then we have the ability to manually enter a category. If we find that one particular manually entered category is being regularly used, then we will be able to add this to the regular complaint categorisation list if we feel that there is an operational need for an additional category.

### **B. Area of law**

As well as the scope of the complaint, we will also categorise the area of law concerned.

The areas of law which we will initially have for categorisation are:

1. Agricultural
2. Ancillary Relief
3. Bankruptcy and Insolvency
4. Child
5. Commercial Conveyancing
6. Company and Commercial
7. Commercial Property
8. Consumer
9. Costs
10. Crime
11. Deeds and document storage
12. Employment
13. Wills and Probate
14. Family
15. Financial Services
16. Housing
17. Human Rights
18. Immigration and Asylum

19. Information Technology
20. Intellectual Property
21. International
22. Landlord and Tenant
23. Licensing
24. Litigation
25. Matrimonial Conveyancing
26. Medical Negligence
27. Mental Health
28. Personal Injury
29. Planning
30. Property
31. Residential Conveyancing
32. Sport
33. Taxation
34. Trusts
35. Welfare and Benefits
36. Other

As with the scope of complaint, there is the option to add an 'other' area if a complaint concerns an area of law which is not listed.

### **Conclusion**

Our method of complaints categorisation allows us to select an area of law, and couple this with the scope of the complaint. It will be possible to have multiple selections. For example, there may be a complaint concerning family law which involves deficient costs information and delay.

General feedback received to date from stakeholders reflects that the complaints categorisation list formulated will allow the Legal Ombudsman to get off to a solid start. Of course, over time there may be a need to add to the lists, or refine them. However, we are confident that the complaints categorisation functionality which we presently have will allow us to achieve our aim of running an ombudsman service which is open, fair, effective, independent and shrewd.