

Complaints Acceptance Policy

Board of the Legal Complaints Service

Last updated: 17 December 2009 (effective for complaints received from 1st January 2010)

1. The Legal Complaints Service (LCS) works to resolve complaints from consumers about the service they have received from their solicitor. In certain situations the LCS, as matter of policy, may decide not to investigate a complaint. This policy sets out the circumstances in which the LCS may decide not to investigate a complaint. We are committed to ensuring that this policy is applied proportionately and fairly.
2. We may need to carry out some initial fact finding into a complaint in order to decide whether or not we will investigate a complaint.
3. The LCS will consider all complaints where unlawful discrimination is alleged and all complaints where dishonesty is alleged. We believe it is in the public and consumer interest to investigate these complaints.
4. The LCS can decide to waive any part of this policy for particular types of complaints. Where a decision is made to waive any aspect of this policy we will publish notice of this or will make our reasons clear as part of our investigation of an individual complaint.

Complaints not raised through the firm's complaints procedure (Rule 2)

5. Rule 2 of the Solicitors Code of Conduct 2007 requires all firms of solicitors to have a written complaints procedure and to ensure that complaints are handled promptly, fairly and effectively in accordance with their procedure.
6. We wish to encourage solicitors to work within the Code of Conduct. We will not usually investigate a complaint until a firm has been provided with an opportunity to resolve a complaint directly. However, the LCS retains a discretion to decide to investigate complaints that have not been considered by a firm either during the internal complaints process or where new issues are raised following the conclusion of this process and during the investigation by the LCS. We may exercise this discretion where there are reasonable grounds to do so and where a fair investigation can be carried out.
7. The LCS may assist a consumer by referring a complaint to a firm's internal complaints procedure.

Complaints by lending institutions

8. The LCS will not investigate a complaint by lending institutions about the service provided to them by their solicitor.
9. We will continue to identify any issues that could amount to professional misconduct and will refer such issues to the Solicitors Regulation Authority as appropriate.
10. Paragraphs 8 and 9 of this policy do not prevent borrowers from complaining to LCS about solicitors that have acted jointly for them and the lending institution.

Complaints made by a solicitor or their firm

11. The LCS will not investigate a complaint of inadequate professional service by one solicitor or firm against another which is not made on the instructions of a consumer who has the status to bring a complaint.
12. The LCS may seek confirmation that a consumer has instructed his or her solicitor to raise the issues on their behalf. Where the LCS is not satisfied that such instructions have been provided the LCS may decline to investigate the complaint.
13. Where the LCS does investigate a complaint made by a solicitor on behalf of a consumer the LCS will not usually award compensation to cover the costs incurred by the solicitor in raising the complaint. The consumer should be made aware of this by the solicitor when he or she gives instructions to raise a complaint.
14. Our service is intended to be accessible to consumers without a need for legal representation to make a complaint.

Complaints made outside of LCS time limits

15. We will not usually investigate a complaint of inadequate professional service, made to us by a consumer, which has been made more than 6 months after:

- the end of the retainer with the solicitor or firm; or
- the consumer became aware of the issues giving rise to the complaint

whichever date is the later.

16. We will consider complaints outside of this six month time frame where there are reasonable grounds to do so and where a fair investigation can be carried out.
17. The Solicitors Code of Conduct 2007 states that a firm or solicitor should provide its clients with contact details of the LCS, where the client has raised a complaint about the service they have received. If a firm fails to provide this information, we may take this as evidence of good reason for delay in complaining to the LCS.
18. We may investigate a complaint of inadequate professional service made outside the 6 month time frame set out above if the complaint:
 - raises issues in the public interest;

- raises issues of unusual importance or sensitivity;
 - if the complaint is made by or on behalf of a child, young person or vulnerable adult; or
 - if the consumer can show good cause for any delay in making a complaint.
19. As stated above, we will consider all complaints where unlawful discrimination is alleged and all complaints where dishonesty is alleged.
20. We may ask a consumer to explain any reason as to why the complaint has been lodged outside the above six month time frames. We may ask for evidence to support these reasons.
21. If the evidence is inconclusive as to whether the complaint has been made within the time frames set out above, the consumer is likely to be given the benefit of the doubt, and the matter decided in his or her favour.

Complaints where an alternative legal remedy exists

22. We may decline to investigate a complaint by a consumer where there is a clear alternative legal remedy available, which has not yet been pursued and which it would be reasonable in terms of likely costs and practicality to expect the consumer to pursue before the LCS considers any complaints.
23. This is intended to cover circumstances where the most appropriate remedy to the issues lies in pursuing a legal remedy rather than an immediate complaint.
24. This will be used sparingly and with care, and confined to situations where it would not be in the public or consumer interest to accept a complaint at this stage. The existence of a legal remedy, such as a negligence claim, will not automatically prevent the LCS from investigating the issues.

Limitation period

25. In civil claims through the courts there is usually an overall "long-stop" requirement that the matter complained about should have happened within the last 15 years. As our jurisdiction is separate and distinct from that of the courts this limitation period does not apply to complaints made to the LCS.
26. We do not generally consider it reasonable for consumers to raise issues which might have happened many years ago, if they could have raised them at the time. However, due to the nature of work carried out by solicitors some problems with the service provided may not emerge for many years after the event. This is particularly true in fields of law such as conveyancing, probate and trusts.
27. It is not in the interests of consumers to rule out the possibility of complaints being dealt with outside the 15-year period that would apply to court cases. The LCS does not consider that it would cause hardship to firms to consider complaints outside of that 15-year period, in cases where it is reasonable to do so.

28. The LCS is aware that there may be evidential or practical difficulties in investigating complaints where the events complained of happened some time ago. We will initially consider whether sufficient evidence exists to enable us to conduct a fair and thorough investigation. Where there is insufficient evidence we may decline to investigate some or all of the issues raised.

Regulation of firms under the Legal Services Act

29. We want to make sure that consumers know where to complain about the service they have received from a law firm. We believe that it's appropriate to act in accordance with the aims of the Legal Services Act. One way we can do this is making sure that regulation focuses on firms rather than on individuals in the legal service market.
30. We will accept complaints about all firms regulated by the SRA.
31. Sometimes solicitors will be part of firms not regulated by the SRA. When this happens, the other regulator (or its complaints handler) will investigate complaints of poor service about that firm including everyone who works there. If we receive a complaint of poor service about an individual solicitor who works for a firm regulated by another regulator (for example, the Council for Licensed Conveyancers) we may decide not to investigate as the complaint could be dealt with by a different complaints handler.