
Legal Ombudsman Scheme
Rules: minor language changes

LEGAL
OMBUDSMAN

Overview

1. The Legal Services Act 2007 created the Office for Legal Complaints (OLC) and tasked it with establishing an Ombudsman scheme to resolve disputes between consumers and their lawyers quickly and with minimum formality. The OLC is the non-executive board of the Legal Ombudsman (LeO), and is charged with overseeing the running of the scheme which opened in October 2010.
2. The Scheme Rules set out the legal framework under which the Legal Ombudsman operates. They underpin decisions by our operational team as well as the Ombudsman process. Our existing Scheme Rules document describes the combined effect of:
 - provisions in the 2007 Act, which only Parliament can change;
 - provisions set by the Lord Chancellor, by statutory instrument under the 2007 Act;
 - requirements set by the Legal Services Board for Regulators, under the 2007 Act;
 - rules set by the Office of Legal Complaints, under the 2007 Act.
3. Rules set by the OLC have to be approved by the Legal Services Board (and, for some specific aspects, by order of the Lord Chancellor).
4. We are seeking views on **minor linguistic changes** to the Scheme Rules to ensure that they remain fit for purpose, while being understandable to users of the service. These changes are made in line with recommendations from the Language of Complaints research, published in November 2017.
5. Support for these changes has been given by the Legal Service Consumer Panel by way of an informal consultation. They are presented here to ensure compliance with Section 205 of the Legal Services Act 2007.
6. We are proposing to change the language used when referring to different stages of our process, to ensure they are easily understandable. The changes are as follows:
 - “informal resolution” to become “agreed outcome”
 - “preliminary decision” to become “case decision”
 - “remedy” to become “way to put things right”
 - “ombudsman decision” to become “final decision”
7. The Legal Ombudsman will consider all responses to proposed changes. We welcome the support of stakeholders to ensure that we do not lose the meaning of the rules in any language changes.

8. Please note that responses should relate **only** to the changes cited above. Wider consideration on the content of our Scheme Rules is not included in this current period of representations. Any evidence provided should be objective, factual information about the impact or effect of the changes to the Scheme Rules.
9. The period for representations will run for 4 weeks from 2 February to 2 March.
10. After consideration of representations duly made, the revised version of the Legal Ombudsman's Scheme Rules will be submitted to the LSB for approval as required by Section 155 of the Legal Services Act, with the intention of implementing the changes from 3 April 2018.

Questions

- A. Are the proposed changes to language in the Scheme Rules clear?
- B. Are there any ways that these changes could be improved?

How to respond

The updated language is detailed in Annex 1 below. Only sections with proposed changes have been included. We welcome any comments on these changes, and have offered the questions above to provide structure.

If possible, please send your responses electronically, although hard copy responses by post are also welcome. Please also use the contact details below to ask any clarifying questions about this paper.

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Annex 1: Draft rules

Amendments are shown as follows – additions involve adding the text in **bold** and deletions show the text in ~~strikeout~~.

Chapter 1: Introduction and definitions

1.4 5: How the Legal Ombudsman deals with complaints:

- first contact;
- grounds for dismissal;
- referring a complaint to court;
- referring to another complaints scheme;
- related complaints;
- ~~informal~~ resolution and investigation;
- evidence;
- procedural time limits;
- hearings;
- determinations and awards by an ombudsman;
- acceptance/rejection of determinations;
- publication;
- enforcement.

1.9 **Determination⁸ means a final decision that is made by an ombudsman on a complaint.**

Chapter 3: What authorised persons must do

3.3 The Legal Services Board expects that regulation of complaint-handling procedures by Approved Regulators will:

- a) give consumers confidence that:
 - effective safeguards will be provided; and
 - complaints will be dealt with comprehensively and swiftly, with appropriate redress where necessary;
- b) provide processes that are:
 - convenient and easy to use (in particular for those that are vulnerable or have disabilities);
 - transparent, clear, well-publicised, free and allow complaints to be made by any reasonable means;
 - prompt and fair, with decisions based on sufficient investigation of the circumstances, and (where appropriate) offer a suitable **way to put things right** ~~remedy~~.

Chapter 5: How the Legal Ombudsman will deal with complaints

~~Informal~~ Resolution

- 5.17 The Legal Ombudsman will try to resolve complaints at the earliest possible stage, by whatever **agreed outcome** ~~means it is considered~~ appropriate – including informal resolution.
- 5.18 If a complaint is settled, abandoned or withdrawn, an ombudsman will tell both the complainant and the authorised person.

Investigation

- 5.19 If the Legal Ombudsman considers that an investigation is necessary, it will:
- a) ensure both parties have been given an opportunity of making representations;
 - b) send the parties ~~either a recommendation report or a preliminary a~~ **case decision**⁵⁸ (which the Act calls an ‘assessment’), with a time limit for response; and
 - c) if any party indicates disagreement within that time limit, arrange for an ombudsman to issue a final decision (which the Act calls a ‘determination’).
- 5.20 If neither party indicates disagreement within that time limit, the Legal Ombudsman may treat the complaint as resolved by the ~~recommendation report~~ **case decision**.

End notes

⁸ Section 137.

⁵⁸ Previously referred to as a recommendation report or a preliminary decision.

For any questions about this paper please contact our Parliamentary and Policy Associate at sarah.ritzenthaler@legalombudsman.org.uk.