

Toolkit: Complaints about Conduct, Negligence, Advice and Costs

Model Complaints
Resolution Procedure



Version

Version	Description	Date
1.0	First release of guidance	29 July 2026

Introduction

It's common to see complaints that involve a question about the professional conduct of a service provider, an allegation tantamount to professional negligence, a challenge of the legal advice given or an issue of the costs charged in a case.

In theory, the Legal Ombudsman can deal with all of these; our jurisdiction extends to being able to make decisions on the service, which can include all four points. Section 137(5) of the Legal Services Act 2007 describes our power to make a decision on a complaint:

The power of the ombudsman to make a direction under subsection (2) is not confined to cases where the complainant may have a cause of action against the respondent for negligence.

Our Scheme Rule 5.37 sets out our approach to making a decision on service:

In determining what is fair and reasonable, the ombudsman will take into account (but is not bound by):

a) what decision a court might make;

b) the relevant Approved Regulator's rules of conduct at the time of the act/omission; and

c) what the ombudsman considers to have been good practice at the time of the act/omission.

The important thing to stress is the conclusion will always be on the service, which means we will never conclude that a conduct rule was breached, that a service provider was negligent, or that the advice was so poor as to break a contractual obligation. We also won't carry out a costs assessment.

Conduct issues

Some consumers will make specific reference to a code of conduct in their complaint. If they do, we encourage you to look behind the reference, to see whether the allegation is really one of poor service. If it is, you can still treat it as a service complaint, in addition to making the complainant aware of their right to refer an issue to the regulator.

Cost information failings, accounting issues, billing practice issues and anything that goes to a general duty of care could easily fall into both categories of conduct and service. We are unlikely to exclude those issues from our investigation, so we encourage you to adopt the same approach.

Negligence issues

We do sometimes see complainants using the word “negligence” in their complaint. It can be an attempt to add force to an allegation of poor service, often without the complainant understanding that it means something specific to a service provider, and the service provider might not treat the allegation as falling under their complaint procedure. It can, simply because of one word, lead to a more formal process, away from the exercise of resolving a complaint. This might not have been the complainant’s intention.

Our advice is that you should read the word in its context, then speak to the complainant about whether they are making a complaint or a claim. This is something you can do at Acknowledgement stage under the MCRP, or even before it.



Example – is this a negligence claim?

Mrs L complained to her barrister about his failure to attend a court hearing. The barrister had been due to attend on his own, with instructing solicitors not attending to save costs, but no one was there and Mrs L had been caused significant worry on the day. She couldn’t get hold of the barrister until an hour after the hearing was adjourned. The adjournment meant there was no legal harm to the case, but it left Mrs L worrying that the court might not look on her case as favourably in future, plus the stress of the delay in an outcome. There was also a successful application for wasted costs against her.

Mrs L’s complaint to the barrister’s Head of Chambers began, “I am writing to complain about the negligence of my barrister.” The Head of Chambers responded to the letter with an encouragement to seek independent advice from a professional negligence solicitor, explaining that Mrs L needed to follow the pre-action protocol.

When Mrs L escalated the complaint to us, we agreed with Mrs L that, whilst the word “negligence” had triggered thoughts of a legal claim, the intention was to make a complaint, so the barrister’s service complaint procedure should have been triggered.

Advice issues

We aren't here to impose our legal opinions on service providers' work. That's not the service we provide.

That doesn't mean we won't make decisions on complaints about the quality of legal advice given in a case, though; it can be a critical part of a service, and it can sometimes be a question we are equipped to answer from a service perspective.

Rather than applying the legal tests in cases like those in *Hedley Byrne v Heller*, *Caparo v Dickman* or *Bolam v Friern*, our service test is simpler and applies to all advice or negligence-type complaints.



We will find the service fell short of a reasonable standard, if we conclude that the advice was obviously wrong.

Advice that was within a range of reasonable conclusions will be treated by us as a reasonable service.

We will want to understand what went into the advice, and that will tend to mean looking at any evidence of research or referenced guidance, as well as evidence of communication with the complainant about it. Not everything will be reasonable, and the cases needn't be extreme for that to be our conclusion:

- Advice that a property falls in a stamp duty exempt area is a point of fact we can easily check.
- Advice that a defendant should expect a sentence of 18 months should correlate with the relevant sentencing guidelines for that offence.
- Advice that a financial settlement of a divorce on a means basis is appropriate, rather than on a needs basis, might be tested by the District Judge approving a consent order, and we can look for evidence of what was said.
- Advice on the documents and conditions needed for a successful application for Indefinite Leave to Remain in the UK can be checked with reference to the relevant Home Office guidance and requirements from the time.

If it looks to us that the position of the service provider is one they were reasonably entitled to hold and share at the time, we'll find the service was reasonable. If not, and the advice looks obviously wrong to us, we'll find there was a failing.

Cost complaints

One of the most common complaints we get is about the size of a service provider's bill. That could have originated from a number of issues, such as:

- "I was expecting to be charged a certain amount and you've charged me more"
- "I didn't know how much it was going to cost, but this is a lot of money"

- “I understand you’ve done the work for this bill, but the service wasn’t up to standard, so I don’t think I should have to pay full price”

Whilst assessment of the bill through the Senior Courts Costs Office is an option for those unhappy with the size of a bill, many complaints about the amount charged can be dealt with by us, including the three examples above.

LeO’s approach

- Where the complaint is about the charges in a known period of time, we can go through specific parts of the bill to see whether the costs correlate with what the service provider says was done.
- Where the complaint is a general challenge about how much the service provider has charged, if the retainer has been short and/or the file small, there’s nothing stopping us from giving a view on whether the costs appear, to our lay eyes, to match the work done (for example, a service provider has charged £1,000 and charges £200 an hour. Does it look on the file like the service provider might have done five hours’ work?)
- Where the complaint is about the firm charging a lot of money for no real value, we can assess how the service provider managed the consumer’s expectations and what information was given about costs.
- Where the complaint is about double charging, we can look at that by reference to the information available.
- Where the complaint is about cost information (which “I’ve been charged more than I was expecting” generally is), we can deal with that.
- Where the complaint is about the rate used by the service provider, we can check the service provider’s charging log for that, as the time spent and the rate should be in there.

If the exercise is likely to be one where the complainant expects a forensic review of all the costs incurred in a case, comparing that to the amount charged, they are likely best-served by the SCCO. If the dispute is over a small number of entries in the breakdown of costs, or over cost information generally, we’re likely to accept the complaint for investigation, so we encourage you to regard these as falling under your complaint procedure.

It’s often prudent to speak to the complainant, explain the different options and give them the chance to choose their path.

Our discretion to dismiss a complaint

Our Scheme Rule 5.7 lists a number of reasons why we may decide to dismiss or discontinue all or part of a complaint. Among them are where we believe the matter has been (5.7e)), is being (5.7f)) or is better to be (5.7g)) determined by a court, arbitration or another complaints or costs assessment scheme.

This is something we will assess when we receive a complaint, and we’ll keep it under review during an investigation, if relevant. By definition, any case where we exercise our discretion to dismiss a complaint under Scheme Rule 5.7 will have been within our jurisdiction to determine.

How to handle complaints involving these

If there is any uncertainty about what the complainant intends by their complaint, you should seek to resolve that uncertainty straight away. It will help you define a complaint, if it should be dealt with under the complaint procedure, and it will help you signpost the complainant elsewhere, if it isn't supposed to be a service complaint.

The default position with any reference to conduct, negligence, advice or costs should be that it is within the Legal Ombudsman's jurisdiction, so it should be capable of falling within your internal complaint procedure.

We recognise that your professional indemnity insurers will have requirements of you and we respect that you should ensure you meet those requirements. This goes to the importance of clarifying what the complainant really intends by their complaint.



1. Is it a complaint? Check with the complainant and explain any differences.
2. If it is a complaint, acknowledge receipt and start your procedure.
3. If it isn't a complaint, signpost promptly and don't open a complaint file.