Final Decision

22 September 2025

Introduction

In 2019 Ms [redacted] instructed England & Derbyshire LLP ('the firm') to act for her in a professional negligence claim against her former divorce solicitors. The retainer ended in January 2023.

In my first Provisional Decision dated 25 June 2025, I had found that the standard of service provided to Ms [redacted] by the firm was unreasonable, and I proposed that they should pay her £14,780.80 to remedy this.

On receipt of the parties' comments in response to my decision, I remained of the view that the firm's service had been unreasonable, but I changed my view on the appropriate remedy. I explained in the second Provisional Decision (dated 19 August 2025, copy attached) why the remedy should be reduced to £13,000. The parties have now had an opportunity to comment.

Ms [redacted] complaint issues that have been investigated by our office are that:

1. **The firm entered into a standstill agreement with the incorrect defendant; and**
2. **The firm failed to keep Ms [redacted] reasonably updated about the error with the standstill agreement in [redacted] 2022.**

The firm has not accepted my second Provisional Decision, and neither has Ms [redacted] Both parties have provided their reasons. Having reviewed these comments, however, I remain of the view that the firm's service was unreasonable and that payment by the firm of £13,000 to Ms [redacted] is the appropriate remedy. Therefore, I will adopt the second Provisional Decision as part of my Final Decision, together with this letter.

The parties' comments on the second Provisional Decision raise some important points that I want to deal with in this decision. Although they do not change my view on this complaint, it is important I explain why. I have not responded to every comment made by them, but I have considered them all. I will focus, however, on the most significant points that they have raised.

As I have explained previously, my role as an ombudsman is to determine a complaint by reference to what is, in my opinion, fair and reasonable in all the circumstances of the case. When determining what is 'fair and reasonable', I am expected to take into account (but I am not bound by) what decision a court might make, relevant regulatory rules and what I consider to be good practice. I have taken such factors into account, and the decision that I set out below, is what, in my opinion, I consider to be fair and reasonable in all the circumstances of this case.

Conclusions

1. The firm entered into a standstill agreement with the incorrect defendant.

1.1 In the second Provisional Decision, I explained why I had found the firm's service was unreasonable. The firm should have identified the correct party or parties to the claim when entering into the standstill agreement in [redacted] 2021. Ms [redacted] divorce solicitors ('DS') against whom she had a claim had closed in 2018, before Ms [redacted] instructed the firm in 2019, and DS was dissolved that year.

1.2 However, the standstill agreement was entered into on [redacted] May 2021 between Ms [redacted] and 'FD', who the Solicitors Regulation Authority ('SRA') had decided was the successor practice to 'DS'. This was a crucial point, given that the limitation deadline of October 2021 or November 2021 would mean that the claim would not be able to proceed after that time, as the standstill agreement was entered into with the wrong party. This error was not discovered by the firm until about September 2022 (and confirmed by the barrister in November 2022), when the limitation period had expired about a year earlier.

1.3 In response to the second Provisional Decision, Ms [redacted] has re-sent some emails, including the firm's email sent to her on 17 February 2023 at 11:31. In this email the firm said:

> *'As I hope I have made clear, I accept that a mistake was made in the handling of your claim and I can only apologise again for this and for the way it has understandably made you feel.'*

1.4 She has also re-sent the email from the firm to her sent on 20 January 2023, when they explained that '*I can only apologise that we were not able to continue with your claim…*'.

1.5 These emails support my view that the firm's service was unreasonable for this issue of complaint. It also shows that the firm accepted their service had fallen below a reasonable standard. Ms [redacted] has also said:

'I put my complete trust in [the firm] who [had] me believe they were acting in my interest. Including signing documents referring to insurance [policies] without dating either.

Of course, I was disappointed with the initial outcome [the firm] led me in the first [instance] to believe my case was worth a lot of money which would have secured my future.

However, I did think that the first case provisional decision of £14,780.80 is a lesser blow only because I do really understand how it had been reduced to £13,000.'

1.6 The firm have commented in response to the second Provisional Decision that the barrister did not recommend further contact with the SRA to establish FD's position as not being the successor practice was correct. They have asked: should Ms [redacted] complaint have included the barrister?

1.7 However, I explained in the first Provisional Decision dated 25 June 2025 that the evidence shows that the barrister was most likely not consulted on the standstill agreement until about September 2022, which was after the limitation period had already expired (which was either October 2021 or November 2021).

1.8 I had said in the first Provisional Decision the following on this point (which I have copied below and indented and put in blue italics to distinguish it from this decision):

1.3 In their complaint response letter dated 18 January 2023, the firm said:

'Unfortunately, although originally advised by the barrister that [FD] would be bound by the Standstill Agreement, on further review he has advised that the Standstill was incorrectly drafted as you were represented by [DS] during your divorce, and not by [FD] which is the successor to [DS].

Claims of this nature need to be brought within six years of your divorce. As your Consent Order was completed on the [redacted] November 2015, the deadline was the [redacted] November 2021. To this end, a Standstill Agreement was entered into in May 2021, to "stop the clock" and preserve your primary time limitation, and the Agreement has been extended several times.

Since [DS] has now been dissolved, their liability insurer was the appropriate Defendant to your claim and they, rather than [FD], should have been named as a party to the agreement. The Standstill however

only preserved a claim against [FD] in error. Regrettably this means that your claim is now out-of-time.

In the circumstances we can no longer act for you as we are now in a position of conflict. I am sorry that I do not have better news for you. We would suggest that you take independent legal advice from another firm of solicitors on the contents of this email.'

1.4 I note that the firm have said that they had advice from the barrister who 'originally' advised that FD would be bound by the standstill agreement but later changed his view and said that FD was not the correct party. However, the firm appear to be referring to advice given by the barrister in October and November 2022, about a year after the limitation period had expired, and not advice given when the standstill agreement was entered into in May 2021.

1.5 I asked my colleague to request from the firm copies of all letters, emails, notes of advice or opinions, and attendance notes of meetings or phone calls between them and that barrister regarding the standstill agreement.

1.6 I note that the standstill agreement was dated on [redacted] May 2021, but the barrister's 22 June 2021 advice on the merits and quantum of the claim said at paragraph 24 'this is a reasonably strong claim. I advise issuing it as soon as possible given the timings of the facts above'. This suggests the barrister may not have known that there was a standstill agreement already in place at that point.

1.7 There is also an email sent by the firm to the barrister on 17 Feb 2022 which appears to be in response to the barrister assuming this case relied on s14A of the Limitation Act 1980 (which refers to a three-year limitation period in a negligence claim from the date of knowledge of the claimant, rather than six years from the date of the act/omission giving rise to the claim). The firm's response is to tell the barrister about the standstill agreement: 'we have a standstill so this is not a Section 14A claim'.

1.8 This shows the barrister most likely didn't know there was a standstill agreement until after it had been entered into, and after the limitation period expired in either October 2021 or November 2021. (I note that the firm said the expiry date was [redacted] November 2021 in their 18 January 2023 email to Ms [redacted] However, FD's solicitors said it was [redacted] October 2021 at the very latest' in their 13 October 2022 email to the firm.)

1.9 On 23 September 2022 the firm emailed the barrister to ask for advice on 'which entity should be the correct defendant'. This is the first reference I

have seen to the firm seeking the barrister's advice on the correct party to the claim.

1.10 The firm's 4 October 2022 email to the barrister also shows that he hadn't been involved in drafting the standstill agreement as they asked him to: '..please also consider the email that we sent to [FD] dated 9 March 2021. We were concerned as to the need for a standstill and of course [DS] no longer existed.' On 13 October 2022 they sent the barrister a copy of the standstill agreement to consider and said: 'we relied upon the comments of [FD] to assume they were indeed the successor practice'.

1.11 The above emails show that the decision to have a standstill agreement with FD only, rather than also with the insurers, was most likely not made with advice from the barrister. The barrister's advice on the standstill agreement doesn't appear to have been sought until October 2022, almost a year after the limitation period had expired.

1.12 The barrister's 4 November 2022 advice said there was the following argument regarding the standstill agreement:

> *'23. …[FD] therefore made the standstill agreement in respect of this claim on behalf of the Defendant and relevant insurers as their undisclosed principal. Therefore the Defendant and insurer is bound by the standstill agreement.'*

1.13 However, by 10 November 2022 the barrister was clear in his email to the firm when he said '…I don't think there is anything doing [sic] in this case…the standstill was with the wrong party'.

1.14 Therefore, on the balance of probabilities it is more likely than not that it was the firm's decision to enter into the standstill agreement with FD only, and not also with the insurers, and that they did so without the input of the barrister.

1.9 In view of this, by the time the firm involved the barrister and asked his advice on the standstill agreement, it was already too late as the limitation period had expired.

1.10 Also, the evidence referred to in the second Provisional Decision shows that the firm accepted the barrister's advice given on 10 November 2022 that the standstill agreement was with the wrong party, and nothing could be done about that. The firm's recent suggestion in response to the second Provisional Decision that perhaps Ms [redacted] claim could still have proceeded in November 2022 contrary to the barrister's advice given at that time is, therefore, rather curious.

1.11 This is because that position was never advanced by the firm when they were acting for Ms [redacted] indeed the firm were the ones who initially identified a problem and first raised it with the barrister in their email sent on 23 September 2022. They then accepted the barrister's advice that the claim was out of time without further challenge. I also note that this was the position of the other's side's solicitor. For these reasons, I don't accept that the firm can reasonably suggest – at this very late stage – that the barrister is at fault for giving advice in 2022 that they fully agreed with at the time and have not questioned until recently.

1.12 A further comment made by the firm in response to the second Provisional Decision is:

> *'Going back to the Barrister's comments in 1.13 [FD] accepted the Standstill in their name yet surely they should have investigated their position in more detail because they accepted the Standstill against them when any competent Solicitor would have wanted to offload the claim onto the insurers of the solicitors Mrs [redacted] used?'*

1.13 If these points had merit, then they should have been raised by the firm at the time they were acting for Ms [redacted] Instead, the evidence shows that the firm discussed the matter at length with the barrister and concluded that there was nothing more that could be done, and that Ms [redacted] claim could not be pursued.

1.14 In any event, FD's conduct does not excuse the firm from their obligation to provide a reasonable service to Ms [redacted] which required them to advise her on which entity was the correct one to enter into a standstill agreement with. Ms [redacted] was not a client of FD, so it is outside the remit of this decision to consider any potential acts or omissions of FD.

1.15 Therefore, the firm's service was unreasonable because they advised Ms [redacted] to enter into a standstill agreement with FD, which the evidence shows was the wrong party. The firm accepted that FD was the wrong party at the time they were acting for Ms [redacted] By the time they discovered this error, it was too late, as the limitation period for the claim had expired.

2. The firm failed to keep Ms [redacted] reasonably updated about the error with the standstill agreement in November 2022.

2.1 In the second Provisional Decision, I found that the firm's service was unreasonable, as they should have informed Ms [redacted] about the error with

the standstill agreement at an earlier stage, and they apologised for not having done so in their 17 February 2023 complaint response.

2.2 They should have updated Ms [redacted] on the error with the standstill agreement and what that meant for her claim in November 2022, shortly after receiving the barrister's 10 November email. They had been acting for Ms [redacted] since 2019, and this was crucial information that she was entitled to have without delay. However, it was not until 18 January 2023 that the firm emailed Ms [redacted] to tell her this, even though she had been chasing the firm for updates.

2.3 The firm have not provided comments challenging this, so I remain of the view that the firm's service was unreasonable, as they failed to tell Ms [redacted] about the error with the standstill agreement within a reasonable time of discovering it.

Remedy

I explained in the second Provisional Decision that I considered there had been a significant detriment to Ms [redacted] resulting from the unreasonable service by the firm. I explained why I considered there had been a financial loss, and how I had calculated this. I had based her loss on the barrister's 22 June 2021 advice, which said that her claim was likely to be worth £105,000, but should be settled for a sum in the region of £60,000, More precisely, this would be £57,500, based on the barrister's figures which suggested a reduction by 45% of the £105,000 figure.

However, from that the introducer's fee of 30% of the damages (including VAT) and the ATE premium should be deducted:

• Likely settlement	£57,500.00
• Less introducer's fee of 30%	(£17,250.00)
• Less insurance premium	(£28,000.00)
Total	*£12,250.00*

In response to the second Provisional Decision, the firm has commented that '*interest is never considered in these matters especially were litigation risk and loss of chance are involved, whether the matter is settled pre court or at court*'.

This appears to be a reference to the basis for how I calculated the loss to Ms [redacted] based on the barrister's advice dated 22 June 2021. However, I explained in my decision that the figure I used as the likely value of the claim was based on the barrister's calculations that had already discounted her likely loss '*by 45% to reflect litigation risk and loss of chance blended together*'.

The barrister's advice was:

> *'I think that the claim has a 60% chance of success. If it were to succeed, it is very difficult to predict what a court would make of quantum. Given that the Claimant was willing to settle for a 1/3 pension sharing order and all of the FMH I think the court would probably find that the underlying court would have ordered as much. That would equate to an order that was very roughly around £90,000 more valuable than the actual Consent Order. If interest were awarded at say 15% overall, that would make £105,000 rounded up. Discounting that by 45% to reflect litigation risk and loss of chance blended together, that would give a settlement value of around £60,000. I would recommend settlement at around that level.'*

The barrister's advice was clear that he recommended a settlement of '*around £60,000*', based on the loss of £90,000 plus 15% on top for interest so £105,000 (rounded up). Reducing the barrister's figure of £105,000 by 45% to reflect the litigation risk and loss of chance more precisely would make £57,750, rather than £60,000.

While I note the firm's comments regarding interest, I consider that taking the figure of £57,500 for settlement based on the barrister's above advice is reasonable in these circumstances. The barrister clearly considered that a reasonable settlement would have been around £60,000 (and that included interest), and the figure I have taken of £57,500 is actually more favourable to the firm.

Indeed, I note that the firm had advised Ms [redacted] to put forward a far higher figure to start settlement negotiations than the £105,000 advised by the barrister. In their 29 September 2021 email they said '*we would advise that we should now make an offer to settle your claim in exchange for the sum of £190,000*'.

For these reasons, my view on the starting point for the financial loss calculation (before necessary deductions) is fair and reasonable.

The firm have also commented that they paid a £10,000 issue fee in this matter. However, I note that the only deductions that the firm were permitted to make from Ms [redacted] damages would have been the 30% including VAT payable to the third-party introducer, and the premium for the ATE policy. I have taken those deductions into account when calculating what is Ms [redacted] likely loss. I am not persuaded that the issue fee is an expense that the firm would have deducted from her compensation in these circumstances.

The firm's conditional fee agreement dated [redacted] September 2025 explained that Ms [redacted] would have nothing to pay if the claim was unsuccessful, and that if it was successful, only the introducer's fee and ATE premium would be deducted.

Therefore, I remain of the view that the financial loss to Ms [redacted] can fairly be put at £12,250.

Regarding the payment for the emotional impact of the firm's unreasonable service, I explained in the second Provisional Decision why a payment of £750, which is at the top end of the band of payments our office directs where there has been a failure causing significant upset (£250-£750), would be appropriate.

Ms [redacted] suffered a very significant detriment from the firm's unreasonable service when they failed to update her about the error with the standstill agreement from 10 November 2022 when counsel told them that '*the standstill agreement was made with the wrong party*', until 18 January 2023. This devastating news was broken to Ms [redacted] by email, over two months after the firm should have told her, despite her chasing for updates without success, when they had been acting for her for over three years.

Therefore, payment by the firm to Ms [redacted] of the total sum of £13,000, is a fair and reasonable resolution to her complaint.

Final Decision

For the reasons set out above and in the Provisional Decision dated 19 August 2025, my Final Decision is that I find there has been unreasonable service by the firm that does require a remedy, and I direct that the firm pay Ms [redacted] the total sum of £13,000.

I have asked Ms [redacted] to let us know what her decision is by **6 October 2025**. We will then let you know whether Ms [redacted] has accepted or rejected my decision and what that means for your firm.

If the decision is accepted, we will require you to take the actions I have directed within 10 working days of us informing you of their acceptance.

If the remedy includes a financial payment, you will either need to make this within 10 working days, if you are able, or if you need any information from Ms [redacted] in order to make the payment e.g. identification, bank details, to have requested this within 10 working days, and then make the payment within 10 working days of the information being received.

[redacted]

[redacted]

Provisional Decision

19 August 2025

Introduction

In my earlier Provisional Decision dated 25 June 2025, I found that the standard of service provided to Ms [redacted] by England & Derbyshire LLP ('the firm') was unreasonable, and they should pay her a total remedy of £14,780.80. This was in relation to her complaint that:

1. **The firm entered into a standstill agreement with the incorrect defendant.**
2. **The firm failed to keep Ms [redacted] reasonably updated about the error with the standstill agreement in November 2022.**

The parties were asked to respond to the Provisional Decision by 9 July. Ms [redacted] rejected the remedy I had proposed and provided her comments in a phone call with my colleague [redacted] on 8 July (I have listened to our office's recording of this), and in her email sent that day, which also attached some further evidence.

On 9 July the firm asked for an extension of time to liaise with their insurers to 18 July, which was agreed. The firm have also not accepted the Provisional Decision and provided some comments on 18 July, and on 21 July they confirmed that their insurers had yet to respond and made a further comment on the decision.

I then asked my colleague [redacted] to ask the firm to respond to some comments made by Ms [redacted] in response to the Provisional Decision. This was about whether a different ATE insurance policy was taken out by the firm from the one referred to in the Provisional Decision. This was relevant to the calculation of the remedy. The firm provided their responses on 30 and 31 July, and on 11 August.

I have considered both parties' comments and further evidence in response to the Provisional Decision. Having done so, I remain of the view that the firm's service was

unreasonable for both complaint issues. However, due to the further information provided by Ms [redacted] and the firm regarding the ATE policy that would have been in place had the firm been able to proceed with the claim, I consider that the total remedy should be £13,000 instead of £14,780.80. I have explained my reasons for this in the remedy section below.

My role as an ombudsman is to determine a complaint by reference to what is, in my opinion, fair and reasonable in all the circumstances of the case. When determining what is 'fair and reasonable', I am expected to take into account (but I am not bound by) what decision a court might make, relevant regulatory rules and what I consider to be good practice. I have taken such factors into account, and the decision that I set out below, is what, in my opinion, I consider to be fair and reasonable in all the circumstances of this case.

Conclusions

1. The firm entered into a standstill agreement with the incorrect defendant.

1.1 Between September and November 2022 the firm and the barrister considered the validity of the standstill agreement between Ms [redacted] and the proposed defendant firm of solicitors ('FD'). The barrister gave his final advice on 10 November 2022, which was that the firm had entered into the standstill agreement with the wrong party.

1.2 The standstill agreement was entered into on [redacted] May 2021 between Ms [redacted] and FD, who were the successor practice to 'DS', the divorce solicitors that had acted for Ms [redacted] The purpose of this agreement was to 'stop the clock' on the six-year limitation period that Ms [redacted] had to issue her claim against DS. DS had closed on 28 February 2018, and the SRA had confirmed that at that date DS had been 'acquired' by FD.

1.3 The firm should have identified the correct party or parties to the claim when entering into the standstill agreement in May 2021. DS had closed in 2018, before Ms [redacted] instructed the firm in 2019, and DS was dissolved that year. This was a crucial point, given that the limitation deadline of October 2021 or November 2021 would mean that the claim would not be able to proceed after that time, as the standstill agreement was entered into with the wrong party.

1.4 Ms [redacted] has said that she made the firm (and the third-party introducer) aware in the first instance that DS were her former solicitors, and she has questioned how the mistake was not picked up when the firm entered into three standstill agreements.

1.5 There is no doubt that the firm knew that DS was the firm that had acted for her in the divorce matter, and the barrister's 22 June 2021 noted DS as the defendant. The problem was that the firm had accepted FD's assurance that they were the successor to DS and the party against whom the claim should be brought, when it was later discovered that they were not.

1.6 The firm have said in their 21 July 2025 email in response to the Provisional Decision:

> *'Please find notification from the SRA that is self-explanatory. I'm not sure that we have seen any evidence other than an evidenced statement that contradicts this information. It seems we have accepted the other side's version without seeking evidence.'*

1.7 The 'notification' the firm have referred to is an email received from the SRA in response to the firm's 16 November 2019 enquiry (copy attached), which said: *'[DS] closed on 28 February 2018. As the firm is closed, you normally need to send your claim to what we call a 'successor practice'*. The email went on to give contact details for FD.

1.8 However, the decision was made by the firm not to commence court proceedings against FD in November 2022. At that time, the firm agreed with the barrister that the standstill agreement should not have been made with FD as they were not the correct defendant, and that Ms [redacted] was statute barred from making her claim against the correct party.

1.9 The firm's email sent on 23 September 2022 to the barrister said:

> *'Our client contracted with [DS], a firm which closed in 2018 and was dissolved in 2019. The successor practice is [FD]. As I understand it, that means strictly the defendant should be [DS], notwithstanding that they no longer exist, or their PII insurer.'*

1.10 On 4 October 2022 the barrister responded:

'I think the best way forward is to sue the insurer under the Third Parties Rights Against Insurers Act 2010. You can in theory resurrect [DS] under the Companies Act 2006 and obtain an order permitting the claim out of time. However, if there is no insurer, there is no point in any event as [DS] has no assets.'

1.11 In their 7 October 2022 email to the barrister the firm set out the history to their dealings with FD, and said:

'*With all of this in mind we feel that [FD] and their PII insurers would be estopped from trying to now say we must only write to [DS] and we are out of time in that regard*.'

1.12 On 13 October 2022 your firm repeated their question to the barrister by email: '*we relied upon the comments of [FD] to assume they were indeed the successor practice. So can we run estoppel and sue [FD]*?'

1.13 The next day the barrister responded by email:

'Just a further thought on [redacted] *You may be able to argue that [FD] made the standstill on behalf of the relevant insurer as their undisclosed principal and therefore the insurer is bound by the standstill. However, [FD] would have to have had the actual authority of the insurer to make the standstill. Further, the standstill would have to be construed so as to relate to a potential claim against the insurer under the 2010 Act. I don't think there's enough evidence to succeed on this argument….'*

1.14 However, on 10 November 2022 the barrister's email to the firm said:

'Unfortunately I don't think there is anything doing in this case. What [FD's solicitor] says is correct. The standstill was made with the wrong party.'

1.15 This shows the firm were well aware that FD were the successor to DS, and the successor point was fully considered by them and the barrister at the time they were acting for Ms [redacted] However, for the reasons given by the barrister, FD was the wrong party to enter into the standstill agreement with, which the firm accepted in their email to Ms [redacted] on 18 January 2023. In that email, the firm explained that the barrister had advised that '*the Standstill was incorrectly*

drafted as you were represented by [DS] during your divorce, and not by [FD] which is the successor to [DS]'.

1.16 Therefore, the comments made by the firm in their emails of 21 July and 11 August 2025 (that FD should be held liable for Ms [redacted] claim) does not appear to be one supported at the time by the firm, the barrister instructed by Ms [redacted] or the other's side's solicitor.

1.17 For these reasons, I remain of the view that the firm's service was unreasonable. They entered into the standstill agreement with the incorrect defendant.

2. The firm failed to keep Ms [redacted] reasonably updated about the error with the standstill agreement in November 2022.

2.1 On 4 November 2022 the firm emailed Ms [redacted] to say that the other side's solicitors had '…*raised a very technical point arguing that the Standstill Agreement in this matter was entered into against the wrong party….I shall update you as soon as I have any news*'. On 10 November the barrister emailed the firm and advised that the standstill agreement had been made with the wrong party, and that there was nothing that could be done about it. However, it was not until 18 January 2023 that the firm emailed Ms [redacted] to tell her this, even though she had been chasing the firm for updates.

2.2 The firm's service was unreasonable, as they should have informed Ms [redacted] about the error with the standstill agreement at an earlier stage, and they apologised for not having done so in their 17 February 2023 complaint response. They should have updated Ms [redacted] on the error with the standstill agreement and what that meant for her claim in November 2022, shortly after receiving the barrister's 10 November email. They had been acting for Ms [redacted] since 2019, and this was crucial information that she was entitled to know without delay.

Remedy

I explained in the Provisional Decision what I considered would be the appropriate remedy for the firm's failure to ensure that the correct parties entered into the standstill agreement (or their failure to issue proceedings against the correct parties within the limitation period, if such an agreement could not be reached), and for their

failure to keep her updated about this error, This would be payment of the sum of £14,030.80 for Ms [redacted] financial loss, and £750 for the distress caused to her, totalling £14,780.30.

I explained that the starting point for the financial loss element of the remedy should be based on the figures put forward by the barrister in his 22 June 2021 advice, which would be £57,500, which took into account litigation risk and 'loss of chance'. The barrister explained in that advice:

> *'I think that the claim has a 60% chance of success. If it were to succeed, it is very difficult to predict what a court would make of quantum. Given that the Claimant was willing to settle for a 1/3 pension sharing order and all of the FMH I think the court would probably find that the underlying court would have ordered as much. That would equate to an order that was very roughly around £90,000 more valuable than the actual Consent Order. If interest were awarded at say 15% overall, that would make £105,000 rounded up. Discounting that by 45% to reflect litigation risk and loss of chance blended together, that would give a settlement value of around £60,000. I would recommend settlement at around that level.'*

The barrister considered the claim to have a value of £105,000 (including interest), which would be discounted by 45% to reflect both litigation risk and loss of chance. That would give a precise figure of £57,750 (the barrister says above 'around £60,000').

Later valuations by the firm were higher. In the firm's 29 September 2021 email, they calculated Ms [redacted] maximum loss as £267,000 and advised her to make an offer for £190,000 at that time. This was rejected by FD. On 26 July 2022 the firm emailed Ms [redacted] about making another offer to FD, of £125,000. This was made in the firm's 8 August 2022 letter to FD's solicitors. The offer was not accepted by the defendant, and then the issue of the wrong party being named in the standstill agreement was identified by FD's solicitors in October 2022.

While I note that Ms [redacted] was advised by the firm in September 2021 and in July 2022 to make much higher offers to the other side than the barrister said she should accept in June 2021, I consider that the valuation of £57,500 is the fairest one to use. This is because the barrister had noted in his 22 June 2021 advice that '*it is very difficult to predict what a court would make of quantum*'. Also, the barrister's

lower opinion on the value of the claim would be the fairer one to rely on, as I am not then using either the firm or Ms [redacted] views on the value of the claim.

However, from that payment, the firm would have been entitled to deduct two payments set out in their client care letter and conditional fee agreement.

These deductions included a payment to a third-party (a company that operated from the same address as the firm and had at least one fee earner at the firm as a director of that company). That third-party acted as 'introducer' to the firm and was entitled to 30% of any damages recovered. Ms [redacted] signed an agreement with the third-party on 8 August 2019 agreeing to the 30% deduction being payable to.

Another deduction was the premium for the after the event insurance policy. When I made the previous Provisional Decision, I relied on the ATE policy provide by Ms [redacted] which said that the total premium would comprise both '*Stage 1*' and '*Stage 2*' premiums:

Stage 1 (Pre Issue) Insurance Premium	**£1,579.20**
Stage 2 (Post Issue) Insurance Premium	**£24,640.00**
Total Insurance Premium	**£26,219.20**

That would mean that if Ms [redacted] were to be placed in the position she would have been in but for the firm's unreasonable service, she would receive the financial loss calculated on the loss of chance/litigation risk basis (based on the advice of the barrister) of £57,500, but less the deductions that would have had to be made, in accordance with the CFA and client care letters:

- Likely settlement loss £57,500.00
- Less introducer's fee of 30% (£17,250.00)
- Less insurance premium (£26,219.20)

Total *£14,030.80*

However, in response to the Provisional Decision dated 25 June 2025, Ms [redacted] said that she had on separate occasions signed two insurance documents which she had been asked not to date, the one with the above insurer ('Insurer 1'), and one with another insurer ('Insurer 2'). She attached a copy of an email sent to her by the firm on 16 March 2022, which said:

'As you know as the moment we have insurance in place which will protect you so that if your claim were to fail then the legal costs of your opponents will be paid on your behalf by the insurance policy in place.

That insurance is with a company called [Insurer 1].

From recent conversations that we have had with another insurance company called [Insurer 2] it is possible that we might be able to get better terms of cover on your behalf.

It is for that reason that I ask you to please sign the attached document, do not date it and then send it back to me as quickly as you can.'

As the calculation of the remedy included the deduction of the premium payable to Insurer 1, I needed to be clear about whether that policy was the one that would have been in place had the claim proceeded, and if so, how much the premium would have been.

The firm have provided some further information, including their email sent to Ms [redacted] on 20 May 2022, in which they said:

'I have now received an offer from [Insurer 2] to insure your claim going forwards.

This is very good news – but I need to go over the Premium with you before I accept it.

The Premium is £4,000 if we do not issue proceedings - which is reasonable for this Claim.

If we issue the premium rises to £25,000 which is very reasonable.

There is additionally a Government tax to pay on top of the Premium. It is called IPT and it is 12% of the premium itself.'

On 30 July 2025 the firm explained to our office that the policy from Insurer 1 offered only £100,000 of cover, whereas the policy from Insurer 2 offered £150,000, which was needed for Ms [redacted] claim, although the price of the policies was the same. They have provided a policy schedule dated 24 May 2022 for Insurer 2 (copy

attached), showing £124,000 of total cover, with a premium of £25,000 plus insurance tax if the matter settled after court proceedings had been issued:

Indemnity Limit	Stage 1 - £8000.00 Stage 2 - £16,000.00 Stage 3 - £100,000.00 for Opponents Costs and Own Disbursements
Premium plus IPT at the prevailing rate on the date of payment.	Stage 1- If settled before the issuing of court proceedings and before the commencement of a six week period before the date agreed between the parties for ADR – £2,000.00; Stage 2 If settled before the issuing of court proceedings but after the commencement of a six week period before the date agreed between the parties for ADR – £4,000.00; Stage 3 - If the matter is settled after court proceedings have been issued – £25,000.00

The insurance premium tax in 2022 was 12%, so that would make a total premium including tax of £28,000.

In their 31 July 2025 email to our office, the firm said that the policy issued by Insurer 1 in 2021 provided cover of only £100,000, and that that insurer would not increase the cover, so a loss at court would have meant that the firm or Ms [redacted] would have had to pay the difference between the other side's costs and her disbursements if they were more than £100,000 (although they have said that they would have underwritten the difference if that occurred).

The firm have said that they cancelled the policy with Insurer 1 and replaced it with the policy from Insurer 2, and they had had a verbal arrangement for cover to move to £150,000.00 should that be needed at no extra cost. In their 11 August 2025 email the firm explained:

> *'The [Insurer 2] ATE premium, if the claim had been issued, would have been £25,000.00 + IPT and that sum would have been deducted from any damages awarded.*
>
> *The [Insurer 1] policy was cancelled and replaced with the [Insurer 2 policy] because [Insurer 1] would never increase the cover above £100,000.00 for Defendant costs if the matter had been lost at Court, whereas [Insurer 2]*

would give extra cover to £150,000.00 if required. Same was by negotiation and had happened latterly with no increase in premium.'

Therefore, based on what the ATE insurance premium that would have been in place had the firm been able to proceed with the claim (had they entered into the standstill agreement with the correct party), the following deductions would have been made from what I consider to be the likely settlement Ms [redacted] would have had:

- Likely settlement £57,500.00
- Less introducer's fee of 30% (£17,250.00)
- Less insurance premium (£28,000.00)

Total *£12,250.00*

Regarding the payment for the emotional impact of the firm's unreasonable service, a payment at the top end of the band of payments our office directs where there has been a failure causing significant upset (£250-£750), would be appropriate.

Ms [redacted] suffered a very significant detriment from the firm's unreasonable service when they failed to update her about the error with the standstill agreement from 10 November 2022 when counsel told them that '*the standstill agreement was made with the wrong party*', until 18 January 2023.

This devastating news was broken to Ms [redacted] by email, over two months after the firm should have told her, despite her chasing for updates without success, when they had been acting for her for over three years. It was not surprising then, that shortly after receipt of that email, Ms [redacted] phoned the firm on 20 January 2023. The firm's note of that call recorded the upset caused to her:

'…What has most upset her is that no one has been upfront with her. She used to call [case handler] on his mobile and he stopped answering her calls (saying that his computer was down). [Another case handler] then took over the matter. [Ms [redacted] said [the new case handler] was lovely at first but then he hasn't replied to her emails and when she called, he was short with her. She said that was not like him. Client said she would rather have some negative update than no update at all. Client just wanted to speak with someone.'

In these circumstances, £750 would be reasonable to address the emotional impact of the firm's unreasonable service. This will mean a total remedy of £13,000, when the financial loss element of £12,250 is added.

Ms [redacted] has commented in response to the Provisional Decision in her call with my colleague on 8 July and in her email that day, that she doesn't understand why the third-party introducer should benefit from this, as they knew all along that the firm that had acted in her divorce had closed. She has said that the third party knew all along and are the same people as at the firm, and she spoke to both of them.

I note this comment, and I want to assure Ms [redacted] that no payment is being directed to the third-party. What I am saying is that I can't direct a payment to her that would be more than she would have received had the firm's service been reasonable. Had it been reasonable, the firm would have deducted from her damages the 30% payable to the third party and also the ATE policy.

I noted in the earlier Provisional Decision that the third party was a company that operated from the same address as the firm and had at least one fee earner at the firm as a director of that company. However, when Ms [redacted] signed her agreement with the third party, and also with the firm, she agreed that 30% of her damages would go to the third party.

Ms [redacted] has said that she believes the firm and the third-party introducer share the blame for the failure of her case. However, our office can only investigate complaints about regulated lawyers such as the firm. In any event, it was the firm's responsibility to advise her on the correct defendant in her claim.

Finally, Ms [redacted] has said that she believes her case is worth a much higher figure than I have proposed. I appreciate why Ms [redacted] has this view, but I have explained above how I have reached a figure for her likely settlement, and what sums would need to be deducted from that figure.

I appreciate that neither Ms [redacted] nor the firm will be content with this decision, as Ms [redacted] believes the remedy should be higher, and the firm believe there should be no remedy. However, both parties will now have a further opportunity to provide any further comments they wish to make before I make a Final Decision.

Provisional Decision

Therefore, my Provisional Decision is that I find there has been unreasonable service that does require a remedy, and I intend to direct that the firm pay Ms [redacted] £13,000.

Please provide any comments you have on this Provisional Decision by **3 September 2025**.

[redacted]

[redacted]