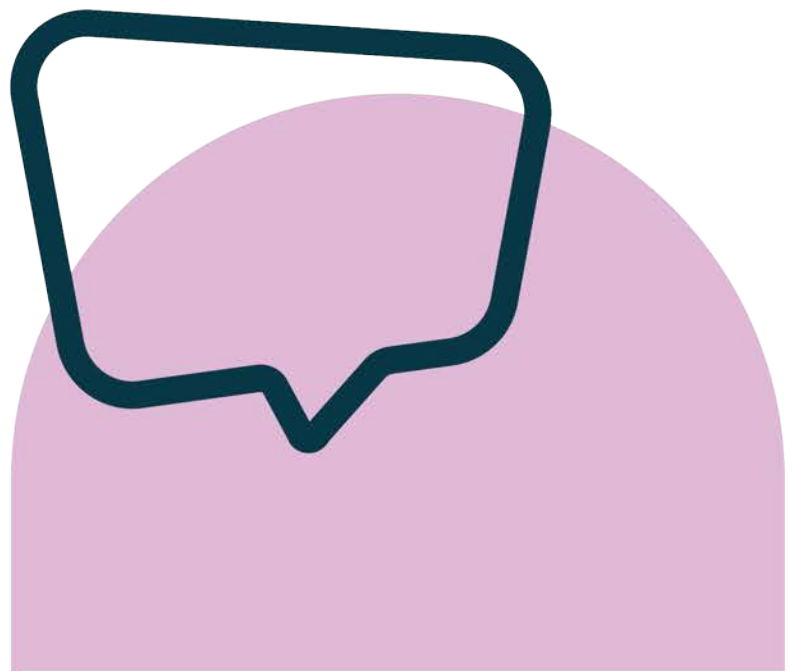


Consultation: Changes to Scheme Rules, case fees, and publication of ombudsman decisions



Contents

Foreword from the OLC Chair	3
Executive summary.....	5
Summary of consultation questions.....	7
Changes to the Scheme Rules	8
• Background.....	8
• Substantive changes to Scheme Rules	9
• Additional proposed changes.....	14
Changes to LeO’s case fees.....	16
Changes to the publication of ombudsman decisions	23
Appendix 1: Summary of proposed Scheme Rules amendments.....	26
Appendix 2: Marked-up version of the proposed Scheme Rules.....	41

About the Legal Ombudsman

The Legal Ombudsman scheme (LeO) was established by the Office for Legal Complaints (OLC) under the terms of the Legal Services Act 2007 (the Act). The Act also established the Legal Services Board (LSB) to oversee the regulation of the legal profession in England and Wales. Both the OLC and the LSB are arm’s length bodies of the Ministry of Justice (MoJ). LeO’s work supports and aligns with the Act’s regulatory objectives.

LeO has two core roles. It resolves complaints about providers of legal services that haven’t been resolved to customers’ satisfaction – as quickly and informally as possible. LeO covers the majority of legal services provided in England and Wales. The rules and limits about what complaints LeO can help with are set out on LeO’s website.

The second vital part of LeO’s work is sharing learning and insight from the complaints it sees. This promotes better complaint handling, prevents future complaints and helps drive higher standards in legal services.

Foreword from the OLC Chair



Legal services are operating in a changing and challenging environment. While most people will have a positive experience of this vital sector, high-profile events, including firm failures, have shaken consumer confidence.

Fragile trust is reflected through unprecedented demand to the Legal Ombudsman (LeO). In 2025/26, complaints increased by a further 37% – driven by a combination of changing consumer expectations, greater awareness of routes to redress, and wider societal trends, including the growing role of artificial intelligence tools.

This amplifies the call for a transformation in complaint handling, by both the legal sector and LeO itself.

This consultation therefore seeks to encourage a shift in culture – supporting better first-tier complaint handling, earlier and more effective resolution, and the greater use of complaints as a source of learning and development. It is about improving consumers' experience of legal services – services they turn to at times in their lives when they need not only expertise, but clarity and empathy.

An ombudsman provides a mirror to the sector it operates in. LeO's experience shows that standards of complaint handling are not consistently meeting the level that customers of legal services should be able to expect.

A single statistic points to the need for change: that one in four people who escalated their complaint to LeO in 2025/26 said they never received a final response from their provider. This is poor and preventable. It undermines the good practice we do see in legal services. It underscores the importance of focusing on those service providers who are not practising positive complaint handling behaviours, by tackling demand failure at source and promoting greater accountability.

The proposals we are putting forward represent a balanced package of reforms, focused on three areas:

Making our Scheme Rules fairer. Our proposed changes to Scheme Rules are designed to ensure that LeO focuses on complaints where its involvement can make a genuine difference because there is the greatest detriment and injustice. They also aim to simplify processes, reduce unnecessary formality, and enable more cases to be resolved earlier.

Incentivising earlier resolution. Our proposals for LeO's case fee arrangements will encourage better first-tier complaints handling, better engagement with LeO, and a sharper focus on resolving complaints at the earliest possible opportunity. They will more fairly align LeO's funding arrangements with the source of demand for its resources and the outcomes of complaints. Those who handle complaints well and

resolve issues promptly should see fewer cases escalate and lower overall costs. Those not handling complaints effectively – or at all – will pay more.

Effecting change through transparency. We are also consulting on changes to our policy on publishing ombudsman decisions. Over time, publishing more decisions has the potential to provide clearer insight into standards of service, support more informed consumer choice, and strengthen opportunities for the legal sector to learn from both poor and good practice. It will also provide intelligence to regulators managing risk and driving improvement. We recognise that moving towards that position will take careful implementation, but it is an important direction of travel.

This consultation forms an immediate response to improve the experience of those who use LeO, ensure its resources are focused where they can make the greatest difference and manage rising demand.

These proposals are themselves part of a broader programme of work – sitting alongside LeO’s soon-to-be-launched model complaints resolution procedure, its renewed focus on sharing insight, and its strengthening of relationships across the legal sector.

Combined they are designed to help LeO respond to immediate pressures while supporting longer-term transformation. They are another step to ensure that LeO remains an effective, responsive and sustainable part of the justice system, both now and in the future. Our 2026/27 business plan takes this further. It proposes an externally-led review detailing how LeO must transform to be fit for the future. Further transformation will focus on LeO’s operating model, capacity, and wider impact.

This consultation reflects our commitment to a system that is fair, proportionate and effective – and to working in partnership with the sector to improve outcomes for consumers and build trust.

I encourage all those with an interest in legal services – consumers, providers, regulators and representative bodies – to engage with this consultation and to share your views.



Ric Blakeway,

Chair of the Office for Legal Complaints

Executive summary

The OLC has initiated a process to radically transform LeO. The strategic vision for LeO 2030 has three pillars:

- Continuous improvement – ensuring LeO continues to do everything it can to improve the efficiency of its own operations.
- Reducing avoidable demand – building on the continued improvements being made under pillar one, making changes to areas which have the potential to limit the impact of significantly accelerated demand. This includes potential changes to the Scheme Rules, proposed changes to the case fee structure, and exploring options to facilitate the publication of all ombudsman final decisions.
- Transformation – a comprehensive and externally-led Scheme Transformation Review (STR) to deliver longer-term transformation and a service that has the agility to deal with its new demand environment.

This consultation focuses on the second pillar of the strategic vision for LeO 2030.

It proposes a number of targeted changes that can be implemented within the framework of the Legal Services Act as it currently stands. They are aimed at addressing immediate operational challenges to ensure LeO can deliver the efficient and effective service consumers and legal providers need.

The consultation covers three areas:

1. Scheme Rules

In this section we outline proposed changes to the Scheme Rules. The changes are designed to support clearer expectations for LeO's customers – both consumers and legal service providers – more proportionate decision-making, and more efficient resolution of cases. They will also help reduce avoidable demand and ensure that LeO's resources can be focused on complaints where its involvement can make the greatest difference.

2. Case fees

In this section we propose revised case fee arrangements. In light of the clear need to incentivise better complaints handling, the proposals more closely align the distribution of LeO's costs with legal providers generating the greatest demand. They also encourage customer behaviour that helps resolve complaints at the earliest possible stage. This is intended to support a fairer and more sustainable approach to LeO's funding, while maintaining free access for consumers.

3. Transparency

In this section we set out changes to LeO's policy of publishing information about the complaints it resolves – historically referred to as “transparency”. These changes support in particular the publication of ombudsman final decisions, subject to appropriate safeguards. They will deliver a range of benefits for consumers, legal providers, and the legal sector as a whole – and bring LeO in line with established practice across ombudsman schemes.

How to respond

We welcome views on both the principles and specific details of our proposals – to help us better understand their impact on consumers, legal service providers and the wider legal sector, and any practical challenges we might need to anticipate.

While these proposals are part of wider plans for LeO's transformation, we are not yet seeking views on other aspects of this programme. Please focus your responses on the proposals set out on this consultation.

This consultation will be open for 12 weeks from **10 June 2026** to **midday on 2 September 2026**.

Please respond online at: <https://forms.cloud.microsoft/e/9DGu0p815X>

Responding online helps us analyse responses efficiently. If you can't use our form, you can email consultations@legalombudsman.org.uk, or send your response to Legal Ombudsman, PO Box 6167, Slough, SL1 0EH.

We will publish a summary of responses. Please indicate in your response if you think there's a reason that we shouldn't publish it. However, our legal responsibilities around freedom of information mean we can't guarantee responses can be kept confidential.

Next steps

Once the consultation is complete, we will publish a summary of the responses we've received, together with our response to stakeholders' views and how we plan to move forward.

If we decide to move ahead with changes to the Scheme Rules and/or the case fee arrangements, the OLC will need to gain approvals from the Legal Services Board and, where applicable, the Lord Chancellor, before implementation. For the publication of Ombudsman final decisions, we will revise and publish a policy reflecting the new approach.

Subject to these decisions and approvals, we expect any changes will be implemented from 1 April 2027. Any necessary transitional arrangements will be set out in advance, including how changes will apply to cases already in progress.

If you have any questions about this consultation, please contact: consultations@legalombudsman.org.uk.

Summary of consultation questions

Q1. Do you agree with the principles underpinning LeO's proposed changes to its Scheme Rules?

- Addressing incoming levels of demand
- Ensuring LeO can focus on complaints where it can make a difference
- Ensuring LeO's process is proportionate, effective and efficient
- Encouraging resolution of complaints at the earliest appropriate opportunity

Please explain why you've given that answer.

Q2. Do you support the proposed substantive changes to the Scheme Rules? If not, or not fully, why – and what changes would you suggest?

Q3. Do you support the proposed additional administrative changes to the Scheme Rules? If not, or not fully, why – and what changes would you suggest?

Q4. Do you agree with the principles underpinning LeO's proposed changes to its case fee arrangements?

- Encouraging better first tier complaint handling
- Encouraging resolution of complaints at the earliest appropriate opportunity
- Ensuring a fair distribution of costs between providers according to demand on LeO's resource

Please explain why you've given that answer.

Q5. Do you agree that legal providers who don't respond to complaints within prescribed eight weeks should pay an extra fee? If not, how do you think this issue should be addressed?

Q6. Do you agree that legal providers who make the most significant demands on LeO's resources should pay a bigger share of LeO's overall costs? Please explain why you've given that answer.

Q7. Do you agree that all complaints within LeO's jurisdiction should be chargeable for case fee purposes, with a waiver applicable in certain circumstances? Please explain why you've given that answer.

Q8. Do you agree that the proposed levels of case fees incentivise better first-tier complaint handling and resolving complaints at the earliest possible stage? Please explain why you've given that answer.

Q9. Do you agree with the principles underpinning LeO's proposed change in policy on publishing ombudsman decisions? Please explain why you've given that answer.

Q10. Do you agree that all Ombudsman final decisions should be considered for publication, ensuring the consumer can't be identified? If not, what are your concerns, and how could they be overcome?

1. Changes to the Scheme Rules

Background

The Legal Services Act 2007 (the Act) created the Office for Legal Complaints (OLC) and tasked it with establishing an ombudsman scheme to support the regulatory objectives (set out in s.1 of the Act) and to resolve disputes between consumers and their lawyers quickly and with minimum formality (s.113 of the Act).

The Scheme Rules set out the framework under which LeO operates – including who can raise a complaint, the types of complaint it can and can't help with, and how it resolves complaints it takes on to investigate.

The existing Scheme Rules document reflects:

- provisions in the Act, which only Parliament can change;
- provisions set by the Lord Chancellor, by Statutory Instrument under the Act;
- requirements set by the Legal Services Board under the Act;
- rules set by the OLC under the Act.

S.155 of the Act states that before the OLC makes or modifies any Scheme Rules, it must get the Legal Services Board's consent. If the OLC proposes making changes to the case fee structure (set out in s.136 of the Act), the Lord Chancellor's consent is also required.

The OLC carried out a comprehensive review of the Scheme Rules in 2022/23. This aimed to help mitigate increasing demand for LeO's service, and to remove barriers to LeO's process working efficiently.

The revised Scheme Rules, which went live in April 2023, helped LeO to absorb increasing demand in the short term. However, demand has continued to increase at an unprecedented rate. This has created the need for a further review, with a focus on:

- improving the experience of LeO's customers;
- ensuring that LeO is dealing with the right cases;
- ensuring that cases can be resolved quickly and with minimum formality;
- supporting efficiency and innovation in LeO's process and operations;
- ensuring LeO can adapt to future changes in the legal landscape; and
- putting right any errors, omissions, inconsistencies and other drafting issues within the Scheme Rules.

Potential changes aligning with these broad points are outlined in the rest of this consultation.

While the benefits of these changes have been considered, it's important to recognise that the process of approval means that their implementation – and so the realisation of any benefits – will take longer than other types of intervention outlined in this consultation.

Question

Q1. Do you agree with the principles underpinning LeO's proposed changes to its Scheme Rules?

- Addressing incoming levels of demand
- Ensuring LeO can focus on complaints where it can make a difference
- Ensuring LeO's process is proportionate, effective and efficient
- Encouraging resolution of complaints at the earliest appropriate opportunity

Please explain why you've given that answer.

Substantive changes to Scheme Rules

The Legal Ombudsman's review of its Scheme Rules has identified a number of potential substantive changes. The proposed wording of these provisions is set out in Appendices 1 and 2.

Proposed rule changes	
Rule 1.6	Establishing the impact of the service
Rule 4.5	Managing historic complaints
Rule 5.1	Standardising how complaints are made to LeO
Rule 5.7 (b)	Dismissal because of a lack of detriment
Rule 5.7 (r)	Managing unacceptable behaviour
Rule 5.19 - 5.21	Resolving complaints through an investigator's findings
Rule 6	Case fees: encouraging earlier resolution

Rule 1.6 – establishing the impact of the service

LeO should investigate complaints where it can add value and make a difference. To do this, it needs to understand the impact the legal provider's service has had on the consumer concerned – and if there's been any detriment, how this can be put right.

As part of a best practice approach to first tier complaint handling (legal service providers' in-house process), providers must also understand the impact of any alleged failing, and take that into account when considering any redress that might be required.

LeO proposes that when consumers raise complaints at first tier, and then when these are escalated to LeO, they should be clear about what the impact of the alleged service failing has been.

If a complainant cannot show evidence that they have experienced any impact or detriment, then LeO won't accept the complaint for investigation.

LeO also proposes amending the existing rule to clarify that it won't accept complaints if it thinks the impact is trivial, inconsequential or theoretical.

Impact

This proposed change will enable LeO to ensure that it is focusing on those complaints where there is a real impact or detriment to remedy, and where LeO's intervention can make a real difference for a consumer.

A clear articulation of the impact or detriment will also make it easier for LeO (and service providers) to understand what needs to be done to put things right. Collectively, these changes will make complaints easier to understand, easier to investigate, and more likely to be suitable for earlier resolution – in the interests of all parties, including LeO.

By setting clear standards and expectations from the outset, this approach will also encourage some customers to reflect on whether LeO can or will be able to offer them the outcome they are seeking.

LeO will continue to provide appropriate support to those customers who experience barriers to articulating their complaint or the impact of an alleged service failing to us.

Rule 4.5 – managing historic complaints

The nature of legal services means a consumer might not be aware of a service failing for some time. For example, the failure to register title to a property may go unnoticed until it is sold. Regardless of when the service was provided, consumers can bring these 'historic' failings to LeO, provided they are escalated to LeO within 12 months of consumer becoming aware of the issue.

However, these complaints can sometimes be so old that it is simply not possible for LeO to investigate them fairly: files can have been destroyed, law firms can have closed and, in extreme examples, fee earners might have passed away. In those circumstances, LeO currently has no option but to send the case to an ombudsman to consider dismissal under Scheme Rule 5.7(k) on the basis of the amount of time that has elapsed. That process is itself time-consuming and resource intensive.

LeO now proposes to introduce a long-stop date to historic complaints to exclude those where it is clear that it is unlikely to be able to investigate them fairly because of the time that has elapsed. We are suggesting this is set at 12 years from the date of the alleged service failing.

Impact

Complaints falling into this category would not be accepted as being in LeO's jurisdiction. This means LeO could close them without further action, avoiding the time-consuming and resource-intensive process of referring them to an ombudsman for consideration or dismissal.

Setting the long-stop date at 12 years rather than any shorter provides complainants with a significant opportunity to bring complaints to LeO. At the same time, it gives providers a degree of certainty that very old complaints will not be investigated by LeO.

This proposal will ensure LeO is only investigating complaints where it has the potential to make a difference. It is likely to reduce both demand for LeO's service and the cost of delivering LeO's scheme.

Rule 5.1 – standardising how complaints are made to LeO

LeO currently accepts complaints through multiple channels, although the significant majority are submitted via the online complaint form.

LeO proposes that consumers must use the online complaint form unless there are exceptional circumstances that mean they can't.

Impact

Requiring use of the online complaint form provides LeO with increased control over the way new complaints are presented and the information that is provided. The variance in quality, content and style of complaints LeO receives requires a significant amount of time and resource on the part of LeO's staff to understand the exact nature of the complaint and any alleged impact. This new approach will cut down the need for manual intervention, and drive efficiency and consistency in incoming casework, reducing "failure demand".

LeO will, in exceptional circumstances, continue to offer reasonable support to those customers who cannot access LeO's online complaint form, to ensure that access to justice is not restricted.

Rule 5.7(b) – dismissal because of a lack of detriment

LeO already has the power to dismiss a complaint where the customer has not experienced significant detriment. But the assessment of what constitutes "significant" is very subjective. The proposed amendments to this clause align it to the revised provisions in Rule 1.6 (above) which will make the application of this rule clearer and more consistent.

Impact

By aligning Rule 1.6 and Rule 5.7(b), we can ensure consistent application of our rules and provide more certainty to our customers in terms of what they can expect from LeO from the outset.

The application of these rules will ensure LeO can focus on investigating those cases where LeO's involvement can make the greatest difference.

Rule 5.7(r) – managing unacceptable behaviour

Unfortunately, there are occasions when LeO's staff experience unacceptable behaviour from our customers – both complainants and service providers.

LeO has a zero-tolerance approach to unacceptable behaviour, and it is important that we have a clear, specific provision in our rules which allows us to dismiss a complainant's complaint if their unacceptable behaviour persists.

Unacceptable behaviour from a service provider would not result in a dismissal – which could, in fact, encourage unacceptable behaviour. But such behaviour would be treated as a conduct issue and referred to the provider's regulator.

Impact

The impact of this change will primarily be to protect LeO's staff in the face of unacceptable behaviour.

Rules 5.19 to 5.21 – resolving complaints through an investigator's findings

Scheme Rules 5.19 and 5.20 were amended in the last review. The updates addressed the fact that, historically, either party to a complaint could escalate it to an ombudsman for a final decision without a substantive basis.

The revised rules allow LeO to resolve a complaint on the basis of the investigator's findings if neither party gives an objection with a substantive basis. The intention was to reduce demand for ombudsman final decisions and free up ombudsman capacity to support LeO colleagues at earlier stages of the complaints process. However, this mechanism hasn't been used as widely or effectively as we had anticipated.

We are now proposing to clarify existing Rules 5.19 and 5.20 and to supplement them with an additional Rule 5.21. Together, these better outline the circumstances in which we will consider referring a case for an ombudsman decision, and those in which we will consider the complaint resolved by the investigator's findings.

Impact

These rule changes will result in fewer cases needing to be escalated for an ombudsman's final decision, provided the investigator's findings are considered to be fair and reasonable and no substantive objections or comments have been raised. This will help resolve complaints more quickly and reduce the overall cost per case.

Proportionality is a key feature of ombudsman schemes and complaints handling generally. The changes will mean escalation to an ombudsman takes place where it is necessary to resolve a complaint, rather than as the norm in every case. Importantly, though, the right to an ombudsman's decision still exists, and the parties to a complaint will receive this most formal outcome when it's necessary and appropriate.

In line with our approach to accessibility, LeO will continue to support any service provider or complainant who faces additional barriers to articulating their views on an investigator's findings.

Rule 6 – case fees: encouraging earlier complaint resolution

The changes to Rule 6 relate to the circumstances in which a case fee is payable on a complaint and the level of that case fee. The details of the proposed changes are outlined more fully in the next section of this consultation document.

Impact

The proposed changes to LeO's case fee arrangements should incentivise service providers to provide a final response to complaints within the expected eight-week period. In 2025/26, 25% of those bringing complaints to LeO said that they had not been given a final response by their service provider. This hinders efficiency and proportionality, as these complaints can't be considered for early resolution in LeO's process, and instead have to go forward for a full investigation.

Encouraging more (and better) first tier complaint responses should:

- reduce the number of complaints escalating to LeO; and
- ensure that more of those that do are suitable for early resolution.

The new arrangements also incentivise earlier resolution of complaints by introducing a staged case fee model, with fees increasing the further into LeO's process a case progresses.

LeO will continue to support both parties in a complaint to resolve it at the earliest appropriate opportunity, and make full use of its existing powers to ensure that neither party frustrates nor prolongs the process.

As we explain in the next section, LeO is funded by a levy on the legal profession, and the amount of that levy contribution is offset by case fee income. Case fee

income can't be spent by LeO. In potentially increasing the amount of case fee income, the revised structure could reduce the overall levy contribution.

Those providers who put the greatest and most frequent demand on LeO's resources, and who continue to deliver a poor service to their customers, will bear a greater share of the cost of funding LeO. Those who deliver a good service to their customers, and who handle complaints reasonably, will not be charged case fees and could see their overall contribution reduce.

Question

Q2. Do you support the proposed substantive changes to the Scheme Rules?

If not, or not fully, why – and what changes would you suggest?

Additional proposed changes

LeO has identified a number of other areas for potential revision.

The further changes below aim to address historic drafting errors, simplify or clarify unclear wording, remove obstacles to resolving complaints efficiently and proportionately, and reorder certain provisions for ease of reading and understanding.

They are administrative improvements, rather than representing substantive changes to the operation of LeO's Scheme Rules or ways of working. The proposed wording is set out in Appendices 1 and 2.

Additional changes for consultation	
Rule 2.1	Clarifies the existing position around complaints brought on behalf of a deceased person
Rule 2.3	Corrects an historic typographical error, with no change to the application of the rule
Rule 2.10	Clarifies LeO's existing position on complaints about successor arrangements
Rule 2.11	A new rule providing clarity on continuity of complaints when the original complainant cannot pursue the complaint.
Rule 4.3	Clarifies when LeO might accept a complaint that has not been through the provider's own complaint handling process.
Rule 4.4	Clarifies historic wording around the application of the "six-month rule" without substantive change to the application of the rule.

Rule 5.2	Updated to reflect the different structures now available to regulated legal entities
Rule 5.3	Clarifies LeO's stance on premature complaints, without substantive change to the application of the rule.
Rule 5.4	Introduces minor clarification to circumstances in which service providers can challenge LeO's jurisdiction
Rule 5.7 (a), (c), (d), (e), (f), (i), (j), (l), (n), (o), (p), (q)	Simplifies drafting and reordering to group dismissal grounds under thematic headings, without substantive change to the application of the rule.
Rule 5.55	Clarifies LeO's "slip rule" to align with the equivalent provision in the Civil Procedure Rules

Question

Q3. Do you support the proposed additional administrative changes to the Scheme Rules?

If not, or not fully, why – and what changes would you suggest?

2. Changes to LeO's case fees

Background

LeO's funding arrangements

Under the provisions of the Legal Services Act, the Legal Ombudsman is funded by a levy on the legal profession. The amount of that levy is reduced by any case fee income that LeO generates from its casework.

The case fee arrangements have remained broadly the same since LeO started work in 2010. Currently, the individual case fee is £400. A fee is charged when a complaint that has been accepted for investigation is closed, if:

- the outcome of the complaint is not in the provider's favour; *and*
- the ombudsman is satisfied that the provider did not take all reasonable steps to resolve the complaint themselves at first tier.

A fee isn't charged (that is, it is waived) if a complaint isn't upheld, and the provider took reasonable steps to try to resolve it themselves.

Previous consultations

LeO and the OLC have consulted twice in the last 18 months on case fees. The first call for input sought views on a proposed increase of the basic case fee to £800, alongside a range of alternative case fee structures.

Respondents largely acknowledged that the case fee should increase. However, there were concerns that the proposed increase was too great, and that alternative structures might drive adverse behaviour or disproportionately penalise providers working in legal areas with tight margins, potentially creating advice "deserts".

Having reflected on those responses, LeO launched a formal consultation on a simple inflationary increase in the case fee from £400 to £600.

Although that proposal was welcomed, a number of stakeholders asked LeO to explore more radical changes to its case fee approach. This was motivated by the need to reduce the number of complaints being escalated to LeO; to incentivise legal service providers to handle complaints better at first tier; and to ensure that those providers creating the biggest demand on LeO's resources would bear a greater share of its costs.

Summary of proposed arrangements

The proposals in this consultation build on the outcomes of previous exercises, in view of the further trends and developments LeO has seen in the meantime.

The proposals are underpinned by the principles of:

- Encouraging better first tier complaint handling
- Encouraging resolution of complaints at the earliest appropriate opportunity
- Ensuring a fair distribution of costs between providers according to demand on LeO's resource.

LeO is proposing that:

- All cases that are accepted as being in LeO's jurisdiction are potentially liable to be charged a case fee unless the case fee waiver test is met, as outlined below.
- Cases resolved by early resolution will be potentially liable for a case fee, unless the case fee waiver test is met.
- Cases dismissed by an ombudsman under Scheme Rule 5.7 will no longer be automatically exempt from the case fee and will be potentially liable for a case fee, unless the case fee waiver test is met.
- Unless the case fee waiver test applies, the fee charged for an upheld complaint will increase depending on the stage of LeO's process where it was resolved:
 - Early resolution: **£200**
 - Investigation (no ombudsman decision): **£750**
 - Ombudsman final decision: **£1,500**

Case fees can be waived:

- where the complaint is resolved in the service provider's favour, and the ombudsman is satisfied that the service provider took all reasonable steps to resolve the complaint at first tier; or
- where the complaint is dismissed under SR 5.7, and the ombudsman is satisfied that the service provider took all reasonable steps to resolve the complaint at first tier.
- Where we establish that a provider has not issued a final response to a complaint within eight weeks of the complaint being made to them, the provider will be charged an additional £400 fee, irrespective of the eventual outcome of any LeO investigation.
- LeO remains free to access for complainants.

The next section gives more detail about how the proposals align with these principles, and why they are appropriate in the current landscape.

Rationale for change

Encouraging better first-tier complaint handling

Since previous consultation and engagement around LeO's case fees, there has been a sustained and unprecedented increase in demand for LeO's service – something that LeO and the OLC have consistently highlighted.

LeO resolved around 8,200 complaints in both 2024/25 and 2025/26, with further increases expected in 2026/27 and beyond. Around 30% of the cases LeO investigates aren't upheld. In these cases, the legal service provider did all they reasonably could to resolve the complaint themselves – and it isn't fair in this light to charge a case fee.

However, LeO has continued to see evidence of poor first tier complaint handling in 46% of complaints it has investigated. And in a quarter of all complaints received by LeO, consumers tell us they have not received a final response from their service provider.

Despite LeO's renewed focus on sharing insights around how legal providers' service and complaints handling can improve, there hasn't been a significant positive shift in the legal sector's approach to complaints. The time is now right to introduce case fee arrangements that will more effectively encourage legal providers to actively engage with first tier complaints, and incentivise them to resolve those complaints at the earliest possible opportunity.

This proposals in this consultation apply to complaints that are *not* resolved in a service provider's favour and/or where the provider failed to take reasonable steps to resolve the complaint at first tier.

Encouraging resolution of complaints at the earliest appropriate opportunity

Resolving a complaint takes time and effort. If LeO finds a legal provider has delivered poor service and/or poor complaints handling, it's fair that a proportion of LeO's costs should be borne by the provider.

The level of resources LeO uses to resolve a complaint increases the further it goes through LeO's process. Early resolutions cost on average around £500 per case, compared with around £2,000 for an investigation.

At all stages of its process, LeO provides support to both parties to try to resolve things swiftly. If the service provider doesn't engage with this support, and the complaint has to go further through LeO's process, there should be a higher charge to the provider if the complaint against them is upheld. Equally, if a complainant causes a delay or doesn't make an effort to help resolve the complaint, then LeO will consider exercising its discretion to dismiss the complaint.

Case fees for complaints that are dismissed

Currently, complaints dismissed by an Ombudsman under Scheme Rule 5.7 are exempt from case fees. But dismissing a complaint still requires time, resource and effort. For this reason, LeO is proposing that the only dismissals that qualify for a case fee waiver will be those where the provider took all reasonable steps to try to resolve the complaint themselves. If they didn't, then a fee should still be payable.

LeO will ensure that dismissals are considered at the earliest appropriate opportunity. But to reflect the resources used on a complaint to the point where the dismissal takes place, the level of case fee will depend on the stage in LeO's process when the complaint is dismissed (early resolution, investigation or final decision).

Case fees for complaints with no final response

In around 25% of all complaints received each year (which in 2024/25 and 2025/26 equated to 2,000 and 2,300 cases respectively), customers told LeO that their service provider had failed to issue a final response to their complaint within the expected eight weeks. This is unacceptable.

LeO is actively engaging with professional regulators and the Legal Services Board to improve first tier complaint handling within the sector. To support the change that consumers need to see, LeO is proposing to charge an additional **£400** fee to any provider who fails to issue a final response to a complaint within eight weeks.

Case fees for early resolution

LeO's early resolution approach is a valuable tool in mitigating increasing demand – and reflects the central importance in alternative dispute resolution of achieving the right resolution at the earliest appropriate opportunity.

LeO already resolves more than 50% of complaints this way, with this likely to continue or grow. As highlighted above, each resolution costs LeO around £500. Yet under the current structure, LeO can't recover any of these costs through case fee income.

For this reason, LeO is proposing to introduce a case fee of **£200** for cases closed by early resolution.

A fee won't be charged if a complaint is resolved in the provider's favour or is dismissed, with evidence of reasonable first tier complaint handling.

This creates an important incentive for providers to engage with early resolution. In contrast, they could be liable for a proposed case fee of **£750** for cases resolved following an investigation (but without recourse to an ombudsman's decision) and **£1,500** for cases resolved by an ombudsman's decision.

Case fees for investigated complaints

The cost of investigating a complaint increases as the investigation progresses and the more formal it becomes. And a mutually-agreed resolution is usually preferable to both parties to one that is decided by a third party – but becomes less likely later in the process.

In the context of growing demand for LeO's service generally, and investigations specifically, it's important to consider whether the existing case fee level reflects the costs, time effort and resource spent on an investigation.

Bearing in mind feedback from previous consultations, LeO is proposing to increase the fee for cases that need an investigation from £400 to **£750**. Again, no fee will be

charged at all if the complaint is resolved in the provider's favour or is dismissed, with evidence of reasonable first tier complaint handling.

An ombudsman's decision is typically the most expensive form of outcome at LeO, given the experience and seniority of the staff involved. So cases resolved by ombudsmen should have a higher fee of **£1,500**.

In some cases, an ombudsman decision is necessary and appropriate. However, we will continue to encourage parties to resolve complaints sooner and more amicably. A higher-level case fee will help incentivise earlier resolution, while making a contribution to the cost of deploying LeO's ombudsman resource where necessary. Once again, a case fee will not be charged if the ombudsman resolves the complaint in the provider's favour and has seen evidence of reasonable first tier complaint handling.

Ensuring a fair distribution of costs between providers according to demand on LeO's resource

LeO's costs are borne by the legal sector through the levy contribution paid by each provider. The amount of the overall levy is reduced by the case fee income that is generated by LeO's casework: the more case fee income LeO generates, the lower the overall levy contribution is and the less that each provider has to pay.

Case fee income can only be used to reduce the levy contribution – it can't be spent by LeO.

Under our proposal, an increased proportion of the cost of LeO will be borne by those providers who have delivered a poor service to their customers, and who haven't taken the opportunity to try to resolve the complaint themselves.

In addition, providers who don't engage with LeO's process and the opportunities for early resolution of complaints will pay a higher case fee than those who do engage and resolve complaints quickly and informally.

Those who provide a reasonable service, and take reasonable steps to resolve complaints, still won't pay a case fee. These providers are likely to see the size of their levy contribution reduce.

LeO has reflected on the frequently-raised suggestion that demand would be reduced if it charged consumers to complain, or charged them if their complaint wasn't upheld. However, a fundamental principle of being an ombudsman scheme, and a criterion for membership of the Ombudsman Association, is that a scheme must be free to access.

And although it isn't a formal provision within the Legal Services Act, the explanatory notes make clear that *"if the complaint is not resolved satisfactorily in-house the consumer is able to bring complaints to the ombudsman scheme free of charge"*.

Introducing a fee for complainants would also very likely disproportionately impact those who can only access LeO because it is free. Such a barrier to access to justice is unacceptable.

Question

Q4. Do you agree with the principles underpinning LeO's proposed changes to its case fee arrangements?

- Encouraging better first tier complaint handling
- Encouraging resolution of complaints at the earliest appropriate opportunity
- Ensuring a fair distribution of costs between providers according to demand on LeO's resource

Please explain why you've given that answer.

Question

Q5. Do you agree that legal providers who don't respond to complaints within prescribed eight weeks should pay an extra fee?

If not, how do you think this issue should be addressed?

Question

Q6. Do you agree that legal providers who make the most significant demands on LeO's resources should pay a bigger share of LeO's overall costs?

Please explain why you've given that answer.

Question

Q7. Do you agree that all complaints within LeO's jurisdiction should be chargeable for case fee purposes, with a waiver applicable in certain circumstances?

Please explain why you've given that answer.

Question

Q8. Do you agree that the proposed levels of case fees incentivise better first-tier complaint handling and resolving complaints at the earliest possible stage?

Please explain why you've given that answer.

Impact on the Legal Ombudsman's funding

As outlined above, LeO can't use case fee income for any purpose other than reducing the overall levy contribution payable by the sector.

The new proposed case fee arrangements rely on LeO capturing data that is not currently collected. So, it isn't possible to forecast exactly what level of case fee income will be generated. If the new arrangements succeed in incentivising improved first tier complaint handling and the early resolution of cases, then any existing assumptions around the number and proportion of case closures will shift – which makes forecasting case fee income very difficult.

However, it is possible to draw some assumptions. Based on cases closed in 2024/25, under the existing regime LeO generated around £940,000 in case fee income – 5% of the overall costs of delivering LeO. This means that, in broad terms, the remaining 95% was covered by the levy contribution.

If the proposed new case fee regime had been in place in 2024/25, then LeO could have generated nearly £3.5m in case fee revenue – about 20% of LeO's costs for that year. So, the levy contribution borne by the sector would have only represented 80% of LeO's costs.

Providers whose customers don't complain to LeO, or whose customers' complaints aren't upheld, would have seen a decrease in their levy contribution and no case fee contribution. Those who had complaints considered and upheld by LeO would have also seen their levy contribution reduce – but would have seen the amount of case fees they had to pay increase quite significantly. So their overall contribution to the cost of delivering LeO would have increased.

Impact on the legal sector

The changes LeO is proposing have the potential to drive significant culture change in the legal sector.

Consumers relying on legal services need – and are entitled to – a formal response to any complaint that they might raise, within a timeframe of eight weeks. Applying a fixed fee (on top of any eventual case fee) in cases where this hasn't happened should incentivise service providers to deliver a first-tier response.

Beyond the purely financial implications, delivering a high-quality response in house significantly reduces the likelihood of the complaint needing to be referred to LeO. Even where a referral does happen, complaints where the provider has given a well-considered response are more likely to be suitable for early resolution. This will reduce the time and effort service providers have to spend engaging with a LeO investigation – which can be used instead on billable client matters.

3. Changes to the publication of ombudsman decisions

Background

LeO and the OLC have the power under s.150 Legal Services Act *“if it considers it appropriate to do so on any particular case, [to] publish a report of the investigation, consideration and determination of a complaint under the Ombudsman scheme”*. However, the exercise of that power is currently limited by the scope of the publishing decisions policy that was set in 2011.

LeO’s current policy is that it publishes full ombudsman decisions only where it is in the public interest. Beyond that, LeO only publishes statistical data about the number of ombudsman decisions against service providers on a rolling twelve-month basis.

As part of the OLC’s 2024-27 strategy, LeO committed to increasing the transparency and impact of its ombudsmen’s final decisions. LeO proposed a trajectory to publishing decisions in full in its draft 2025/26 budget and business plan, but these didn’t go on to be approved by the Legal Services Board.

LeO decided to focus its attention on refreshing and making greater use of its powers to publish individual decisions in full where this is in the public interest. To date, it has published more than 20 cases demonstrating significant issues of poor customer service and/or severe impact on the consumer involved.

While LeO remains committed to publishing all its ombudsman final decisions, there are a number of practical and legal issues that will require a significant amount of time and resource to resolve. In its current context, LeO has always been mindful that these resources could instead be used to resolve complaints.

The proposal

LeO’s proposals in this consultation represent a change of LeO’s long-standing policy on publication of ombudsman decisions.

LeO intends to move away from only publishing high-level statistical data, towards a position where every ombudsman final decision will be considered for full publication on LeO’s website.

In line with the terms of the Legal Services Act and the OLC’s Public Interest Decisions policy, any published decision will either be fully redacted or drafted and published in a way that ensures that the complainant can’t be directly or indirectly identified.

Over the course of 2025/26, LeO worked to overcome some of the barriers to publishing full decisions. In particular significant progress has already been made on a revised approach to both the drafting and content of decisions – which will not only reduce the risks associated with publication, but improve efficiency and ombudsman capacity.

However, a considerable amount of work remains to ensure that LeO would be in a position to safely and accurately publish its decisions. Approving a revised policy is the first step on a path to full publication – which is unlikely to happen before 2027/28.

Rationale for the policy change

LeO's principles for moving towards full publication of its ombudsman decisions include, but aren't limited to:

Consumer empowerment and choice

Access to LeO's ombudsman decisions would help consumers to make an informed choice about which provider they want to help them with their legal need. It would also help consumers who think they might have experienced poor service to understand whether this is the case, and if it is, how things might be put right fairly and reasonably.

In contrast, the current data-only approach presents an incomplete picture of the standard of service which a provider has given to its customers – and so can only play a limited role in helping consumers decide which provider to engage. It also doesn't help consumers gauge whether they have experienced detriment, and to understand whether it's worth pursuing a complaint.

Best practice across the ombudsman sector

All of the major ombudsman schemes in the UK publish all (or the majority) of their decisions. LeO, a large, statutory scheme, stands out as the principal exception to that sector-wide approach.

The Ombudsman Association views transparency as a foundational pillar of administrative justice, and it has also advocated for LeO to consider full publication of its decisions.

The Legal Services Consumer Panel has been a vocal advocate for full publication and the level of insight it would provide to both existing and prospective consumers of legal services.

Driving improvement across the sector

LeO's published ombudsman decisions will be a valuable resource to help service providers understand what an acceptable standard of service and complaints handling looks like – and, if used effectively, support improvement across the sector.

LeO finds evidence of poor first-tier complaint handling in nearly 50% of cases with an investigative outcome. Published decisions would give service providers the "blueprints" needed to resolve issues internally, reducing the volume of cases that reach LeO.

Reputation

If LeO did change its policy, the fact a service provider had no decisions published about it could be a strong marketing tool. The prospect of publication could incentivise providers to try to resolve complaints earlier – before ombudsman decision stage – and improve the service they provide to stop complaints arising.

Equally, around 30-40% of all ombudsman decisions result in a finding of “no poor service”. Full publication will allow those providers who provide a reasonable service and good first tier complaint handling to be recognised for this.

Question

Q9. Do you agree with the principles underpinning LeO's proposed change in policy on publishing ombudsman decisions?

Please explain why you've given that answer.

Question

Q10. Do you agree that all Ombudsman final decisions should be considered for publication, ensuring the consumer can't be identified?

If not, what are your concerns, and how could they be overcome?

Appendix 1: Summary of proposed Scheme Rules amendments

Rule no.	Current Scheme Rule	Proposed new Scheme Rule wording	Reasoning for change
1.6	<p><u>Complaint</u> means an oral or written expression of dissatisfaction which:</p> <p>a) alleges that the complainant has suffered (or may suffer) financial loss, distress, inconvenience, or other detriment; and</p> <p>b) is covered by chapter two (who can complain about what).</p>	<p>Complaint means an oral or written expression of dissatisfaction which:</p> <p>a) alleges that the complainant has suffered (or is likely to suffer) financial loss, distress, inconvenience, or other detriment, and states in summary the nature of that loss or detriment; and</p> <p>b) is covered by chapter two (who can complain about what).</p> <p>Detriment means a real and material disadvantage suffered (or likely to be suffered) by the complainant as a result of the act or omission complained of.</p> <p>Detriment does not include matters that are trivial, technical, or inconsequential, or where the impact on the complainant is minimal or purely theoretical.</p> <p>In determining whether the complainant has suffered (or is likely to suffer) detriment for the purposes of this definition, the Legal Ombudsman may treat the impact as insufficient where it</p>	<p>It is important at both first tier and when a complaint is escalated to LeO to be able to understand clearly what the impact of any poor service has been.</p> <p>It is also important for those looking to make complaints to understand that there has to be a genuine and identifiable impact or detriment for a complaint to be accepted by LeO.</p> <p>If there is no impact then LeO cannot investigate the complaint.</p>

		would not be proportionate and reasonable to investigate, having regard to the nature of the detriment alleged.	
2.1 f)	A complainant must be one of the following: f) a personal representative or beneficiary of the estate of a person who, before he/she died, had not referred the complaint to the <u>Legal Ombudsman</u> .	A complainant must be one of the following: f) a beneficiary or personal representative, on behalf of a deceased person, for services provided to them before they died, if the deceased person had not previously referred the complaint to the Legal Ombudsman	Providing clarity around complaints relating to the service provided to someone before they passed away.
2.10	Where <u>authorised person A</u> ceases to exist and B succeeds to the whole (or substantially the whole) of A's business: a) acts/omissions by A become acts/omissions of B; and b) <u>complaints</u> already outstanding against A become <u>complaints</u> against B. Unless an <u>Ombudsman</u> decides that this is, in his/her opinion, not fair and reasonable in all the circumstances of the case.	Where <u>authorised person A</u> ceases to exist and B succeeds to the whole (or substantially the whole) of A's business: a) acts/omissions by A become acts/omissions of B b) a complainant may complain directly to B about the acts/omissions of A, and c) complaints already outstanding against A become complaints against B Unless an <u>Ombudsman</u> decides that this is, in his/her opinion, not fair and reasonable in all the circumstances of the case.	It is important for consumers to understand that if their former provider has closed, they can raise their complaint with the provider that has taken over the old provider's work. Consumers do not need to raise their complaint with the old provider if a now provider has taken over.

NEW 2.11		Where a complainant falling within Rule 2.1(b) to (f) ceases to exist, is dissolved, wound up, or otherwise becomes unable to pursue the complaint, the Ombudsman may permit the complaint to be continued by such person as it considers appropriate, where it is satisfied that it is fair and reasonable to do so.	Currently the Scheme Rules only address what happens if an individual complainant dies and who can continue the complaint on their behalf, the proposed change now sets out what happens where the complainant is not an individual but falls into another category of complainant.
2.3	A complainant must not have been, at the time of the act/omission to which the <u>complaint</u> relates: a) a <u>public body</u> (or acting for a <u>public body</u>) in relation to the services complained about; or c) an <u>authorised person</u> who procured the services complained about on behalf of someone else	A complainant must not have been, at the time of the act/omission to which the <u>complaint</u> relates: a) a <u>public body</u> (or acting for a <u>public body</u>) in relation to the services complained about; or b) an <u>authorised person</u> who procured the services complained about on behalf of someone else	A simple typographical correction.
4.3	For example, an <u>ombudsman</u> may decide that the <u>Legal Ombudsman</u> should consider the <u>complaint</u> where the authorised person has refused to consider it, or where delay would harm the complainant.	An Ombudsman may consider a complaint before the authorised person has had eight weeks to respond, or before a final response has been issued, where the Ombudsman considers that it is fair and reasonable to do so.	The same Rule and principle, redrafted for ease of comprehension.

4.4	<p>a) This time limit applies only if the authorised person's written response to a complaint included prominently:</p> <ul style="list-style-type: none"> • an explanation that the <u>Legal Ombudsman</u> was available if the complainant remained dissatisfied; • full contact details for the <u>Legal Ombudsman</u>; and • a warning that the <u>complaint</u> must be referred to the <u>Legal Ombudsman</u> within six months of the date of the written response; <p>b) If (but only if) the conditions in (a) are satisfied, a complainant must ordinarily refer the <u>complaint</u> to the <u>Legal Ombudsman</u> within six months of the date of that written response.</p>	<p>Ordinarily, a complainant must refer a complaint to the Legal Ombudsman within six months of the date of the authorised person's written response, if that written response prominently included:</p> <p>a) an explanation that the Legal Ombudsman was available if the complainant remained dissatisfied; and</p> <p>b) full contact details for the Legal Ombudsman and a warning that the complaint must be referred to the Legal Ombudsman within six months.</p>	<p>The same Rule and principle, redrafted for ease of comprehension.</p>
4.5	<p>Ordinarily, the complainant must refer the complaint to the <u>Legal Ombudsman</u> no later than:</p> <ul style="list-style-type: none"> - one year from the act/omission; or - one year from when the complainant should reasonably 	<p>Ordinarily, the complainant must refer the complaint to the <u>Legal Ombudsman</u> no later than:</p> <ul style="list-style-type: none"> - one year from the act/omission; or 	<p>Introducing an express long-stop date of 12 years from the date of the act or omission to provide certainty, finality, and manage historic complaints risk.</p>

	have known there was cause for complaint	<ul style="list-style-type: none"> - one year from when the complainant should reasonably have known there was cause for complaint - in any event no later than 12 years from the date of the act/omission to which the complaint relates 	This covers situations where it is clear that complaints are likely to be too old for LeO to be able to investigate them fairly.
5.1	The Legal Ombudsman may require a complainant to complete its complaint form.	The Legal Ombudsman will require complainants to complete its complaint form, unless there are exceptional reasons why it is not possible to do so	<p>Requiring completion of LeO's complaint form, will better enable LeO to understand the specifics of incoming complaints and deliver a more effective and efficient process for all customers.</p> <p>LeO would, of course, offer customers suitable adjustments where reasonably required.</p>
5.2	In the case of a partnership (or former partnership), it is sufficient for the <u>Legal Ombudsman</u> to communicate with any partner (or former partner).	Where the respondent is a partnership, limited liability partnership, body corporate, or other unincorporated association, it is sufficient for the Legal Ombudsman to communicate with any partner, member, director, officer, or other person appearing to the Legal Ombudsman to have authority to act on behalf of the respondent in relation to the complaint.	<p>Modernises language to reflect contemporary business structures.</p> <p>Explicitly includes partnerships, LLPs, corporate bodies and unincorporated associations.</p> <p>Simplifies service and communication arrangements for organisational respondents.</p>
5.3	Unless:	Unless the conditions in Rule 4.2 are met, or an Ombudsman otherwise considers that it is fair and reasonable to do so, the Legal Ombudsman will:	Aligns operation of first-contact provisions more closely with Rule 4.2. The two Rules, when read together, clarify when complaints will be

	<p>a) the <u>authorised person</u> has already had eight weeks to consider the <u>complaint</u>; or</p> <p>b) the <u>authorised person</u> has already issued a written response to the <u>complaint</u>; or</p> <p>c) an <u>ombudsman</u> considers that there are exceptional reasons;</p> <p>the <u>Legal Ombudsman</u> will:</p> <p>a) refer the complaint to the authorised person;</p> <p>b) notify the complainant; and</p> <p>c) explain why to both of them.</p>	<p>a) refer the complaint to the authorised person;</p> <p>b) notify the complainant; and</p> <p>c) explain the reasons for doing so to both the complainant and the authorised person.</p>	<p>referred back to the authorised person and when early consideration is appropriate.</p>
5.4	<p>If the <u>authorised person</u> claims that all or part of the <u>complaint</u>:</p> <p>a) is not covered by the <u>Legal Ombudsman</u> under chapter two; or</p> <p>b) is out-of-time under chapter four; or</p> <p>c) should be dismissed under paragraph 5.7;</p>	<p>If the <u>authorised person</u> claims that all or part of the <u>complaint</u>:</p> <p>a) is not covered by the <u>Legal Ombudsman</u> under chapter two; or</p> <p>b) is, or may be, out-of-time under chapter four; or</p> <p>c) should be dismissed under paragraph 5.7;</p>	<p>Allows some discretion where complaints cannot be exact about an act/omission</p>
5.7	<p>An <u>ombudsman</u> may (but does not have to) dismiss or discontinue all or part of a <u>complaint</u> if, in his/her opinion:</p>	<p>An <u>ombudsman</u> may dismiss or discontinue all or part of a <u>complaint at any stage</u> if, in the Ombudsman's</p>	<p>Re-structures dismissal grounds for clarity and usability (introduces suggested sub-headings).</p>

	<p>a) it does not have any reasonable prospect of success or</p> <p>b) the complainant has not suffered (and is unlikely to suffer) significant financial loss, distress, inconvenience or detriment; or</p> <p>c) the <u>authorised person</u> has already offered fair and reasonable redress in relation to the circumstances alleged by the complainant which has either already been accepted by the complainant or is still open for acceptance; or</p> <p>d) the complainant has previously complained about the same issue to the <u>Legal Ombudsman</u> (unless the <u>ombudsman</u> considers that material new evidence, likely to affect the outcome, only became available to the complainant afterwards); or</p> <p>e) a comparable independent complaints (or costs assessment) scheme or a court has already dealt with the same issue; or</p> <p>f) a comparable independent complaints (or costs-assessment)</p>	<p>opinion, it would not be appropriate to investigate or continue to investigate the complaint. Without limitation, this may include circumstances where:</p> <p><u>No reasonable prospect or meaningful outcome:</u></p> <p>a) it does not have a reasonable prospect of success; or</p> <p>b) the complainant has not suffered real and material disadvantage, or the detriment is trivial, technical, or inconsequential, or the impact on the complainant is minimal or purely theoretical.</p> <p>c) the <u>authorised person</u> has offered fair and reasonable redress in relation to the circumstances alleged by the complainant which has either already been accepted by the complainant or is still open for the complainant to accept; or</p> <p>d) the complainant has previously complained about the same issue to the Legal Ombudsman unless material new evidence has since become available; or</p> <p><u>Unsuitable or more appropriate forum</u></p>	<p>a) Current wording prevents dismissal of many complaints that have little prospect of success</p> <p>b) Drafted to align to the revised detriment threshold in Rule 1.6</p> <p>c) Clarifies that at any point a provider can offer a remedy that's fair and reasonable, and if complainant doesn't accept we can dismiss</p> <p>d) simplifies wording</p> <p>e) simplifies wording</p> <p>f) simplifies wording</p> <p>i) simplifies wording</p> <p>l) simplifies wording</p> <p>n) former o) rule wording, re-ordered to bring under grouped sub-heading</p> <p>o) former p) rule wording, re-ordered to bring under grouped sub-heading historic conduct provision now included under r) for clarity</p> <p>p) former q) rule wording, re-ordered to bring under grouped sub-heading</p> <p>q) former n) reordered</p>
--	--	---	---

	<p>scheme or a court is dealing with the same issue, unless those proceedings are first stayed (by the agreement of all parties or by a court order) so that the <u>Legal Ombudsman</u> can deal with the issue; or</p> <p>g) it would be more suitable for the issue to be dealt with by a court, by arbitration or by another complaints (or costs assessment) scheme; or</p> <p>h) the issue concerns an <u>authorised person's</u> decision when exercising a discretion under a will or trust; or</p> <p>i) the issue concerns an <u>authorised person's</u> failure to consult a beneficiary before exercising a discretion under a will or trust, where there is no legal obligation to consult; or</p> <p>j) the issue involves someone else who has not complained, and the <u>ombudsman</u> considers that it would not be appropriate to deal with the issue without their consent; or</p>	<p>e) a court or another complaints or costs-assessment scheme has already dealt with the same issue; or</p> <p>f) a court or another complaints or costs-assessment scheme is dealing with the same issue, unless those proceedings are first stayed; or</p> <p>g) it would be more suitable for the issue to be dealt with by a court, by arbitration or another complaints (or costs assessment) scheme; or</p> <p>h) the issue concerns an <u>authorised person's</u> decision when exercising a discretion under a will or trust; or</p> <p>i) the issue concerns a failure to consult a beneficiary where there is no legal obligation to do so; or</p> <p><u>Proportionality, practicality or fairness</u></p> <p>j) the issue involves a person who has not complained and it would not be appropriate to deal with the issue without their consent; or</p> <p>k) it would not be practicable to investigate the issue fairly because of the time that has elapsed; or</p>	<p>r) Introduces a new standalone conduct-based ground reflecting the unreasonable behaviour policy and LeO's ability to dismiss a complaint if it is being deliberately frustrated by a complainant.</p>
--	---	--	---

	<p>k) it is not practicable to investigate the issue fairly because of the time which has elapsed since the act/omission; or</p> <p>l) the issue concerns an act/omission outside England and Wales and the circumstances do not have a sufficient connection with England and Wales; or</p> <p>m) the complaint is about an authorised person's refusal to provide a service and the complainant has not produced evidence that the refusal was for other than legitimate or reasonable reasons; or</p> <p>n) there are other compelling reasons why it is inappropriate for the issue to be dealt with by the <u>Legal Ombudsman</u>.</p> <p>o) it is frivolous or vexatious; or</p> <p>p) it would not be a proportionate use of the <u>ombudsman's</u> time to investigate the complaint, due to the likely impact or due to its complexity, the amount of evidence provided, or due to the</p>	<p>l) the issue concerns an act/omission outside England and Wales with insufficient connection with England and Wales; or</p> <p>m) the complaint is about an authorised person's refusal to provide a service and the complainant has not produced evidence that the refusal was for other than legitimate or reasonable reasons; or</p> <p>n) the complaint is frivolous or vexatious; or</p> <p>o) it would not be a proportionate use of the <u>ombudsman's</u> resources to investigate the complaint, having regard to its likely impact, complexity or the evidence provided; or</p> <p>p) the <u>ombudsman</u> considers that there has been undue delay in the complainant raising the complaint; or</p> <p>q) there are other compelling reasons why it is inappropriate for the issue to be dealt with by the <u>Legal Ombudsman</u>; or</p> <p><u>Conduct of the complainant</u></p>	
--	---	---	--

	<p>conduct of the complainant during the investigation; or</p> <p>q) the <u>ombudsman</u> considers that there has been undue delay in the complainant raising the complaint</p>	<p>r) the conduct of the complainant is such that it is unreasonable, abusive, threatening, or otherwise has a significant adverse impact on the Legal Ombudsman's ability to deal with the complaint fairly, efficiently; or safely.</p>	
--	--	---	--

5.19	<p>If the <u>Legal Ombudsman</u> considers that an investigation is necessary, it will:</p> <p>a) ensure both <u>parties</u> have been given an opportunity of making representations;</p> <p>b) share with both <u>parties</u> the findings of its investigation with a time limit for response; and</p> <p>c) if any <u>party</u> indicates disagreement within that time limit, arrange for an <u>ombudsman</u> to issue a final decision (which the <u>Act</u> calls a '<u>determination</u>') but only in circumstances where the disagreement is either based on new facts or evidence which may have a bearing on the investigator's findings, or on the basis of a challenge of the facts and or evidence on which the</p>	<p>Where the Legal Ombudsman has investigated a complaint, issued its findings to the parties and given the parties the opportunity to make representations on those findings, the complaint may be treated as resolved in accordance with those findings unless an Ombudsman considers that it is necessary and proportionate to issue a final decision.</p>	<p>Simplifies the existing wording and clarifies that a complaint can be treated as resolved by way of the investigator's findings unless an Ombudsman considers a final decision is required.</p> <p>Introduces a necessity and proportionality test for issuing final determinations.</p> <p>Aims to reduce unnecessary escalation while preserving fairness.</p>
------	--	---	---

	investigator's findings relies, or in circumstances where the <u>ombudsman</u> determines it fair and reasonable to issue a <u>determination</u> .		
5.20	If neither <u>party</u> , in their response to the investigator's findings, indicates disagreement within that time limit, or in circumstances where no new facts or evidence has been provided in response to the investigator's findings, or where the disagreement is not based on a challenge of the facts or evidence on which the investigator's findings rely, the <u>Legal Ombudsman</u> may treat the <u>complaint</u> as resolved in accordance with the investigator's findings	An Ombudsman may issue a final decision only where the Ombudsman considers that it is necessary and proportionate to do so. Without limitation, this may include circumstances where: <ul style="list-style-type: none"> a) a party has raised new facts or evidence which may materially affect the outcome; b) a party has identified a material error of fact or law in the investigator's findings; or c) the Ombudsman considers that a final decision is required to resolve a substantive dispute between the parties. 	To be read in conjunction with revised 5.19 above and 5.21 below. Providing indicative scenarios when an Ombudsman may consider that a final decision is required. Aims to reduce unnecessary escalation while preserving fairness.
NEW 5.21		Disagreement with the investigator's findings, does not in itself amount to grounds for an Ombudsman to issue a final decision. A party who wishes an Ombudsman to consider issuing a final decision must,	To be read in conjunction with 5.19 and 5.20 above, providing clarity that disagreement alone with an investigator's findings is not sufficient basis to warrant escalation for an Ombudsman's final decision. Provides further clarity as to the kinds of reasons that might

		<p>set out the grounds relied upon. Without limitation, grounds may include that:</p> <ul style="list-style-type: none"> a) new facts or evidence have been provided which may materially affect the outcome; b) a material error of fact or law has been identified in the investigator's findings; c) a material procedural unfairness has been identified in the investigation process; or d) there is a substantive dispute between the parties which cannot reasonably be resolved without an Ombudsman final decision. 	<p>encourage an ombudsman to issue a final decision</p>
<p><i>Subsequent numbering will be affected – for ease of current reference the current SR numbers have been used without change</i></p>			
5.55	<p>However, if after the <u>determination</u> the <u>ombudsman</u> becomes aware of either a procedural defect or a fundamental error contained within the <u>determination</u> which, in the <u>ombudsman's</u> reasonable opinion, renders it wrong or unsafe, then the <u>ombudsman</u> may withdraw the <u>determination</u> and provide a new <u>determination</u>, taking into account the procedural defect or fundamental error.</p>	<p>An Ombudsman may at any time correct an accidental slip, omission, or clerical error in a decision or determination. Such a correction does not affect the substance of the decision or determination.</p>	<p>Amended wording to ensure that LeO's slip rule is more in line with the Civil Procedure Rules slip rule.</p>

6	<p>Case fees payable by authorised persons</p> <p>6.1 A <u>complaint</u> is potentially chargeable unless:</p> <ul style="list-style-type: none"> a) it is out of jurisdiction; or b) it is dismissed or discontinued under paragraph 5.7. <p>6.2 A case fee is payable by the business/partnership or individual <u>authorised person</u> for every potentially chargeable <u>complaint</u> when it is closed unless:</p> <ul style="list-style-type: none"> a) the <u>complaint</u> was: <ul style="list-style-type: none"> - abandoned or withdrawn; or - settled, resolved or determined in favour of the <u>authorised person</u>; and b) the <u>ombudsman</u> is satisfied that the <u>authorised person</u> took all reasonable steps, under his/her complaints procedures, to try to resolve the <u>complaint</u>. <p>6.3 The case fee is £400 for all chargeable <u>complaints</u>.</p> <p>6.4 The remaining costs of running the <u>Legal Ombudsman</u> are covered by a</p>	<p>Case fees payable by authorised persons</p> <p>6.1 A complaint within the Legal Ombudsman's jurisdiction is chargeable for the purposes of section 136 of the Act, subject to Rules 6.2 to 6.7.</p> <p>6.2 A case fee is payable by the business, partnership or individual authorised person in respect of a chargeable complaint when that complaint is closed, unless the fee is waived under Rule 6.3.</p> <p>6.3 The Legal Ombudsman will waive the case fee where it is satisfied that:</p> <ul style="list-style-type: none"> a) the complaint was: <ul style="list-style-type: none"> - abandoned or withdrawn by the complainant; or - settled, resolved, or determined in favour of the authorised person; or - dismissed or discontinued under Rule 5.7; and b) the Ombudsman is satisfied that the authorised person took all reasonable steps under its complaints procedures to try to resolve the complaint without the 	<p>Provisions updated to encourage improved first tier complaint handling and to incentivise service providers to resolve complaints as quickly and efficiently as possible.</p> <p>Introduces a fixed fee where there is no evidence of first tier complaint handling.</p> <p>Introduces and sets out a new incremental case fee, the amount chargeable dependent on when in the process the complaint is concluded.</p>
---	---	---	---

	<p>levy on <u>Approved Regulators</u> by the Legal Services Board</p> <p>6.5 There is no charge to complainants.</p>	<p>need for referral to the Legal Ombudsman.</p> <p>6.4 Where a case fee is payable under Rule 6.2 and has not been waived under Rule 6.3, the amount payable depends on the stage in the Legal Ombudsman process at which the complaint is closed:</p> <ul style="list-style-type: none"> a) complaints resolved by way of Early Resolution: £200 per complaint; b) complaints resolved by way of investigation but not requiring an Ombudsman's final decision: £750 per complaint; and c) complaints resolved by way of an Ombudsman's final decision: £1,500 per complaint. <p>6.5 Where an authorised person has not provided a written final response to a complaint within eight weeks of receiving it, an additional fee of £400 is payable when the complaint is closed, unless the complaint was accepted by the Legal Ombudsman under Rule 4.3 before that eight-week period expired.</p> <p>6.6 The remaining costs of running the Legal Ombudsman are covered by a</p>	
--	--	--	--

		levy on Approved Regulators by the Legal Services Board. 6.7 There is no charge to complainants.	
--	--	--	--

Appendix 2: Marked-up version of the proposed Scheme Rules

1 Introduction and definitions

Contents

1.1

- These scheme rules are about complaints made from 6 October 2010 to authorised persons including legal practitioners and others, authorised in England and Wales.
- They explain which complaints are covered by the Legal Ombudsman and how it will deal with them.
- This version includes amendments that apply to complaints referred to the Legal Ombudsman from ~~1 April 2023~~ XX XXXX XXXX.

1.2 Parliament, in the Act:

- created the Legal Services Board (to oversee Approved Regulators) and the Office for Legal Complaints (to establish the Legal Ombudsman);
- gave the Lord Chancellor power to make orders, including orders modifying who would be able to bring a complaint to the Legal Ombudsman.
- gave the Legal Services Board power to set requirements for the rules of Approved Regulators about how authorised persons handle complaints and cooperate with an ombudsman; and
- gave the Office for Legal Complaints power to make rules affecting which complaints can be handled by the Legal Ombudsman and how those complaints will be handled.

1.3 These scheme rules include:

- a summary of relevant provisions in the Act, as modified by orders made by the Lord Chancellor (though it is the Act and the orders themselves that count);
- a summary of requirements on complaint-handling made by the Legal Services Board under the powers given to it by the Act; and
- rules made by the Office for Legal Complaints under the powers given to it by the Act.

The endnotes identify the section of the Act that is being summarised, or under which an order, requirement or rule has been made; and which are the rules made by the Office for Legal Complaints for the Legal Ombudsman.

- 1.4 This book also includes some general guidance. There are six chapters –
- 1: Introduction and definitions:
 - contents of this book;
 - meaning of words that are underlined.
 - 2: Who can complain about what:
 - who can complain;
 - what they can complain about.
 - 3: What authorised persons must do:
 - dealing with complaints themselves;
 - cooperating with the Legal Ombudsman.
 - 4: When complaints can be referred to the Legal Ombudsman:
 - after complaining to the authorised person;
 - time limit from act/omission;
 - ombudsman extending time limits.
 - 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;
 - resolution and investigation;
 - evidence;
 - procedural time limits;
 - hearings;
 - determinations and awards by an ombudsman;
 - acceptance/rejection of determinations;
 - publication.
 - enforcement.
 - 6: Case fees payable by authorised persons.

Meaning of words that are underlined

1.5 The Act means the Legal Services Act 2007.

- 1.6 Complaint means an oral or written expression of dissatisfaction which:
- a) alleges that the complainant has suffered (or may suffer) financial loss, distress, inconvenience, or other detriment; ~~and~~, and states in summary the nature of that loss or detriment; and
 - b) is covered by chapter two (who can complain about what).

Detriment means a real and material disadvantage suffered (or likely to be suffered) by the complainant as a result of the act or omission complained of. Detriment does not include matters that are trivial, technical, or inconsequential, or where the impact on the complainant is minimal or purely theoretical.

In determining whether the complainant has suffered (or is likely to suffer) detriment for the purposes of this definition, the Legal Ombudsman may treat the impact as insufficient where it would not be proportionate and reasonable to investigate, having regard to the nature of the detriment alleged.

1.7 Authorised person means:

- a) someone authorised, in England and Wales, to carry out a reserved legal activity at the time of the relevant act/omission or covered under section 129 of the Act, including:
- alternative business structures (licensed under part 5 of the Act);
 - barristers;
 - costs lawyers;
 - chartered legal executives;
 - licensed conveyancers;
 - notaries;
 - patent attorneys;
 - probate practitioners;
 - registered European lawyers;
 - solicitors; or
 - trade mark attorneys;
- b) (under section 131 of the Act):
- a business that is responsible for an act/omission of an employee; and
 - a partnership that is responsible for an act/omission of a partner.

1.8 Approved Regulator means:

- a) a regulator approved under schedule 4 of the Act, including:
- the Association of Chartered Certified Accountants (for reserved probate activities);
 - the Association of Costs Lawyers, through the Costs Lawyer Standards Board;
 - the Bar Council, through the Bar Standards Board (for barristers);
 - the Chartered Institute of Patent Attorneys, through the Intellectual Property Regulation Board;
 - the Council for Licensed Conveyancers;
 - the Institute of Chartered Accountants in England and Wales (for reserved probate activities)
 - the Institute of Chartered Accountants in Scotland (for reserved probate activities);
 - CILEX Regulation, through the Chartered Institute of Legal Executives;

- the Chartered Institute of Trade Mark Attorneys, through the Intellectual Property Regulation Board;
 - the Law Society, through the Solicitors Regulation Authority;
 - the Master of the Faculties (for notaries); and
 - the Legal Services Board (but only for any alternative business structures it licenses directly);
- 1.9 Determination means a final decision that is made by an ombudsman on a complaint.
- 1.10 Legal Ombudsman means the ombudsman scheme established by the Office for Legal Complaints.
- 1.11 Ombudsman means:
- a) any ombudsman from the Legal Ombudsman; and
 - b) any Legal Ombudsman staff member to whom an ombudsman has delegated the relevant functions (but an ombudsman cannot delegate the functions of determining a complaint or of dismissing or discontinuing it for any of the reasons under paragraph 5.7).
- 1.12 Party includes:
- a) a complainant (covered by chapter two);
 - b) an authorised person (covered by chapter two) against whom the complaint is made;
 - c) an authorised person (covered by chapter five) whom an ombudsman treats as a joint respondent to a complaint.
- 1.13 Public body means any government department, local authority or any other body constituted for the purposes of the public services, local government or the administration of justice.
- 1.14 Reserved legal activity (as defined in schedule 2 of the Act) means:
- a) exercising a right of audience;
 - b) conducting litigation;
 - c) reserved instrument activities;
 - d) probate activities;
 - e) notarial activities;
 - f) administration of oaths.

2 Who can complain about what

Who can complain

- 2.1 A complainant must be one of the following:
- a) an individual;
 - b) a business or enterprise that was a micro-enterprise (European Union definition) when it referred the complaint to the authorised person;
 - c) a charity that had an annual income net of tax of less than £1 million when it referred the complaint to the authorised person;
 - d) a club/association/organisation, the affairs of which are managed by its members/a committee/a committee of its members, that had an annual income net of tax of less than £1 million when it referred the complaint to the authorised person;
 - e) a trustee of a trust that had an asset value of less than £1 million when it referred the complaint to the authorised person; or
 - f) ~~a personal representative or beneficiary of the estate of a person who, before he/she died, had not referred the complaint to the Legal Ombudsman.~~ a beneficiary or personal representative, on behalf of a deceased person, for services provided to them before they died, if the deceased person had not previously referred the complaint to the Legal Ombudsman.
- 2.2 If a complainant who has referred a complaint to the Legal Ombudsman dies or is otherwise unable to act, the complaint can be continued by:
- a) anyone authorised by law
(for example:
 - the executor of a complainant who has died; or
 - someone with a lasting power of attorney from a complainant who is incapable); or
 - b) the residuary beneficiaries of the estate of a complainant who has died.
- 2.3 A complainant must not have been, at the time of the act/omission to which the complaint relates:
- a) a public body (or acting for a public body) in relation to the services complained about; or
 - ↔ b) an authorised person who procured the services complained about on behalf of someone else.
- 2.4 For example, where the complaint is about a barrister who was instructed by a solicitor on behalf of a consumer, the consumer can complain to the ombudsman, but the solicitor cannot.
- 2.5 A complainant can authorise someone else in writing (including an authorised person) to act for the complainant in pursuing a complaint, but the Legal

Ombudsman remains free to contact the complainant direct where it considers that appropriate.

What they can complain about

- 2.6 The complaint must relate to an act/omission by someone who was an authorised person at that time but:
- a) an act/omission by an employee is usually treated also as an act/omission by their employer, whether or not the employer knew or approved; and
 - b) an act/omission by a partner is usually treated also as an act/omission by the partnership, unless the complainant knew (at the time of the act/omission) that the partner had no authority to act for the partnership.
- 2.7 The act/omission does not have to:
- a) relate to a reserved legal activity; nor
 - b) be after the Act came into force (but see the time limits in chapter four).
- 2.8 The complaint must relate to services which the authorised person:
- a) provided to the complainant; or
 - b) provided to another authorised person who procured them on behalf of the complainant; or
 - c) provided to an estate of a person who is deceased where the complainant is a beneficiary of that estate; or
 - d) provided to (or as) a trustee where the complainant is a beneficiary of the trust; or
 - e) offered, or refused to provide, to the complainant.
- 2.9 A complaint is not affected by any change in the membership of a partnership or other unincorporated body.
- 2.10 Where authorised person A ceases to exist and B succeeds to the whole (or substantially the whole) of A's business:
- a) acts/omissions by A become acts/omissions of B;
 - b) a complainant may complain directly to B about the acts/omissions of A, and
 - c) complaints already outstanding against A become complaints against B.

Unless an Ombudsman decides that this is, in his/her opinion, not fair and reasonable in all the circumstances of the case.

- 2.11 Where a complainant falling within Rule 2.1(b) to (f) ceases to exist, is dissolved, wound up, or otherwise becomes unable to pursue the complaint, the Ombudsman may permit the complaint to be continued by such person as it considers appropriate, where it is satisfied that it is fair and reasonable to do so.

3 What authorised persons must do

Dealing with complaints themselves

- 3.1 Authorised persons including legal practitioners and others must comply with their Approved Regulator's rules on handling complaints, including any requirements specified by the Legal Services Board.
- 3.2 The Legal Services Board has required that:
- a) authorised persons tell all clients in writing at the time of engagement, or existing clients at the next appropriate opportunity that they can complain, how and to whom this can be done;
 - b) this must include that they can complain to the Legal Ombudsman at the end of the authorised person's complaints process, the timeframe for doing so and full details of how to contact the Legal Ombudsman; and
 - c) authorised persons tell all clients in writing at the end of the authorised person's complaints process that they can complain to the Legal Ombudsman, the timeframe for doing so and full details of how to contact the Legal Ombudsman.
- 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 remedy.

Cooperating with the Legal Ombudsman

- 3.4 Authorised persons must comply with their Approved Regulator's rules on cooperating with an ombudsman, including any requirements specified by the Legal Services Board.

4 When complaints can be referred to the Legal Ombudsman

After complaining to the authorised person

- 4.1 Ordinarily, a complainant cannot use the Legal Ombudsman unless the complainant has first used the authorised person's complaints procedure (referred to in chapter three).

Time limit from authorised person's final response

- 4.2 But a complainant can use the Legal Ombudsman if:
- a) the complaint has not been resolved to the complainant's satisfaction within eight weeks of being made to the authorised person; or
 - b) an ombudsman considers that there are exceptional reasons to consider the complaint sooner, or without it having been made first to the authorised person; or
 - c) where an ombudsman considers that in-house resolution is not possible due to irretrievable breakdown in the relationship between an authorised person and the person making the complaint.

- 4.3 ~~For example, an ombudsman may decide that the Legal Ombudsman should consider the complaint where the authorised person has refused to consider it, or where delay would harm the complainant.~~ An Ombudsman may consider a complaint before the authorised person has had eight weeks to respond, or before a final response has been issued, where the Ombudsman considers that it is fair and reasonable to do so.

- ~~a) This time limit applies only if the authorised person's written response to a complaint included prominently:~~

- ~~• an explanation that the Legal Ombudsman was available if the complainant remained dissatisfied;~~
- ~~• full contact details for the Legal Ombudsman; and~~
- ~~• a warning that the complaint must be referred to the Legal Ombudsman within six months of the date of the written response;~~

- ~~b) If (but only if) the conditions in (a) are satisfied, a complainant must ordinarily refer the complaint to the Legal Ombudsman within six months of the date of that written response.~~

- 4.4 Ordinarily, a complainant must refer a complaint to the Legal Ombudsman within six months of the date of the authorised person's written response, if that written response prominently included:
- a) an explanation that the Legal Ombudsman was available if the complainant remained dissatisfied; and
 - b) full contact details for the Legal Ombudsman and a warning that the complaint must be referred to the Legal Ombudsman within six months.

Time limit from act/omission

- 4.5 Ordinarily, the complainant must refer the complaint to the Legal Ombudsman no later than:
- one year from the act/omission; or
 - one year from when the complainant should reasonably have known there was cause for complaint.
 - in any event no later than 12 years from the date of the act/omission to which the complaint relates
- 4.6 In relation to 4.5:
- a) where a complaint is referred by a personal representative or beneficiary of the estate of a person who, before he/she died, had not referred the complaint to the Legal Ombudsman, the period runs from when the deceased should reasonably have known there was cause for complaint; and
 - b) when the complainant (or the deceased) should reasonably have known there was a cause for complaint will be assessed on the basis of the complainant's (or the deceased's) own knowledge, disregarding what the complainant (or the deceased) might have been told if he/she had sought advice.

Ombudsman extending time limits

- 4.7 If an ombudsman considers that it is fair and reasonable in all the circumstances, he/she may extend any of these time limits to the extent that he/she considers fair.
- 4.8 For example an Ombudsman:
- a) might extend a time limit if the complainant was prevented from meeting the time limit as a result of serious illness; and
 - b) is likely to extend a time limit where the time limit had not expired when the complainant raised the complaint with the authorised person.

5 How the Legal Ombudsman will deal with complaints

- 5.1 The Legal Ombudsman ~~may require a complainant to complete its complaint form.~~ will require complainants to complete its complaint form, unless there are exceptional reasons why it is not possible to do so.
- 5.2 ~~In the case of a partnership (or former partnership), it is sufficient for the Legal Ombudsman to communicate with any partner (or former partner).~~ Where the respondent is a partnership, limited liability partnership, body corporate, or other unincorporated association, it is sufficient for the Legal Ombudsman to communicate with any partner, member, director, officer, or other person appearing to the Legal Ombudsman to have authority to act on behalf of the respondent in relation to the complaint.

First contact

- 5.3 ~~Unless:~~
- ~~a) the authorised person has already had eight weeks to consider the complaint; or~~
 - ~~b) the authorised person has already issued a written response to the complaint; or~~
 - ~~c) an ombudsman considers that there are exceptional reasons;~~
- ~~the Legal Ombudsman will:~~
- ~~a) refer the complaint to the authorised person;~~
 - ~~b) notify the complainant; and~~
 - ~~c) explain why to both of them.~~

Unless the conditions in Rule 4.2 are met, or an Ombudsman otherwise considers that it is fair and reasonable to do so, the Legal Ombudsman will:

- a) refer the complaint to the authorised person;
 - b) notify the complainant; and
 - c) explain the reasons for doing so to both the complainant and the authorised person
- 5.4 If the authorised person claims that all or part of the complaint:
- a) is not covered by the Legal Ombudsman under chapter two; or
 - b) is out-of-time under chapter four; or
 - c) should be dismissed under paragraph 5.7;
- then the authorised person should provide reasons for their challenge at the earliest possible opportunity following which an ombudsman will give all parties an opportunity to make representations before deciding.
- 5.5 Otherwise, if an ombudsman considers that all or part of the complaint:
- a) may not be covered by the Legal Ombudsman under chapter two; or
 - b) ~~is, or~~ may be, out-of-time under chapter four; or
 - c) should be dismissed under paragraph 5.7;

the ombudsman will give the complainant an opportunity to make representations before deciding.

- 5.6 The ombudsman will then give the complainant and the authorised person his/her decision and the reasons for it.

Grounds for dismissing or discontinuing a complaint

- 5.7 ~~An ombudsman may (but does not have to) dismiss or discontinue all or part of a complaint if, in his/her opinion~~ An ombudsman may dismiss or discontinue all or part of a complaint at any stage if, in the Ombudsman's opinion, it would not be appropriate to investigate or continue to investigate the complaint. Without limitation, this may include circumstances where: No reasonable prospect or meaningful outcome

- a) it does not have ~~any~~ reasonable prospect of success or
- b) the complainant has not suffered ~~(and is unlikely to suffer) significant financial loss, distress, inconvenience or detriment~~ real and material disadvantage, or the detriment is trivial, technical, or inconsequential, or the impact on the complainant is minimal or purely theoretical; or
- c) the authorised person has ~~already~~ offered fair and reasonable redress in relation to the circumstances alleged by the complainant which has either already been accepted by the complainant or is still open for acceptance; or
- d) the complainant has previously complained about the same issue to the Legal Ombudsman (unless ~~the ombudsman considers that~~ material new evidence, ~~likely to affect the outcome, only became available to the complainant afterwards~~ has since become available); or

Unsuitable or more appropriate forum

- e) ~~a comparable independent complaints (or costs assessment) scheme or a court~~ a court or other costs-assessment scheme has already dealt with the same issue; or
- f) ~~a comparable independent complaints (or costs assessment) scheme or a court or another complaints or costs assessment scheme~~ is dealing with the same issue, unless those proceedings are first stayed ~~(by the agreement of all parties or by a court order) so that the Legal Ombudsman can deal with the issue~~; or
- g) it would be more suitable for the issue to be dealt with by a court, by arbitration or by another complaints (or costs assessment) scheme; or
- h) the issue concerns an authorised person's decision when exercising a discretion under a will or trust; or

- i) the issue concerns an authorised person's failure to consult a beneficiary before exercising a discretion under a will or trust, where there is no legal obligation to consult; or

Proportionality, practicality or fairness

- j) the issue involves ~~someone else~~ a person who has not complained, and ~~the ombudsman considers that~~ it would not be appropriate to deal with the issue without their consent; or
- k) it ~~is not~~ would not be practicable to investigate the issue fairly because of the time which has elapsed ~~since the act/omission~~; or
- l) the issue concerns an act/omission outside England and Wales ~~and the circumstances do not have a~~ with insufficient connection with England and Wales; or
- m) the complaint is about an authorised person's refusal to provide a service and the complainant has not produced evidence that the refusal was for other than legitimate or reasonable reasons; or
- n) the complaint is frivolous or vexatious; or
- ~~p o~~ p) it would not be a proportionate use of the ombudsman's time resources to investigate the complaint, ~~due~~ having regard to the likely impact or due to its complexity, the amount of evidence provided, ~~or due to the conduct of the complainant during the investigation~~; or
- ~~q p~~ q) the ombudsman considers that there has been undue delay in the complainant raising the complaint
- ~~n-q~~ r) there are other compelling reasons why it is inappropriate for the issue to be dealt with by the Legal Ombudsman.

~~e) it is frivolous or vexatious; or~~

~~p) it would not be a proportionate use of the ombudsman's time resources to investigate the complaint, due having regard to the likely impact or due to its complexity, the amount of evidence provided, or due to the conduct of the complainant during the investigation; or~~

~~q) the ombudsman considers that there has been undue delay in the complainant raising the complaint~~

Conduct of the complainant

- r) the conduct of the complainant is such that it is unreasonable, abusive, threatening, or otherwise has a significant adverse impact on the Legal Ombudsman's ability to deal with the complaint fairly, efficiently; or safely.

Referring a complaint to court

- 5.8 Exceptionally (at the instance of an ombudsman) where the ombudsman considers that:
- a) resolution of a particular legal question is necessary in order to resolve a dispute; but
 - b) it is not more suitable for the whole dispute to be dealt with by a court; the ombudsman may (but does not have to) refer that legal question to court.
- 5.9 Exceptionally, (at the instance of an authorised person) where:
- a) the authorised person requests, and also undertakes to pay the complainant's legal costs and disbursements on terms the ombudsman considers appropriate; and
 - b) an ombudsman considers that the whole dispute would be more suitably dealt with by a court as a test case between the complainant and the authorised person;
- the ombudsman may (but does not have to) dismiss the complaint, so that a court may consider it as a test case.
- 5.10 By way of example only, in relation to a test case (at the instance of an authorised person) the ombudsman might require an undertaking in favour of the complainant that, if the complainant or the authorised person starts court proceedings against the other in respect of the complaint in any court in England and Wales within six months of the complaint being dismissed, the authorised person will:
- a) pay the complainant's reasonable costs and disbursements (to be assessed if not agreed on an indemnity basis);
 - b) pay these in connection with the proceedings at first instance and also any subsequent appeal made by the authorised person; and
 - c) make interim payments on account if and to the extent that it appears reasonable to do so.
- 5.11 Factors the ombudsman may take into account in considering whether to refer a legal question to court, or to dismiss a complaint so that it may be the subject of a test case in court, include (but are not limited to):
- a) any representations made by the authorised person or the complainant;
 - b) the stage already reached in consideration of the dispute;
 - c) how far the legal question is central to the outcome of the dispute;
 - d) how important or novel the legal question is in the context of the dispute;
 - e) the remedies that a court could impose.
 - f) the amount at stake; and
 - g) the significance for the authorised person (or similar authorised persons) or their clients.

Referring to another complaints scheme

- 5.12 An ombudsman may refer a complaint to another complaints scheme if:

- a) he/she considers it appropriate; and
 - b) the complainant agrees.
- 5.13 If an ombudsman refers a complaint to another complaints scheme, the ombudsman will give the complainant and the authorised person reasons for the referral.

Arrangements for assistance

- 5.14 The Legal Ombudsman may make such arrangements as it considers appropriate (which may include paying fees) for Approved Regulators or others to provide assistance to an ombudsman in the investigation or consideration of a complaint.

Related complaints

- 5.15 The Legal Ombudsman may:
- a) tell a complainant that a related complaint could have been brought against some other authorised person; or
 - b) treat someone else who was an authorised person at the time of the act/omission as a joint respondent to the complaint.
- 5.16 Where two or more complaints against different authorised persons relate to connected circumstances:
- a) the Legal Ombudsman may investigate them together, but an ombudsman will make separate determinations; and
 - b) the determinations may require the authorised persons to contribute towards the overall redress in the proportions the ombudsman considers appropriate.

Resolution

- 5.17 The Legal Ombudsman will try to resolve complaints at the earliest possible stage, by whatever agreed outcome is considered appropriate.
- 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) share with both parties the findings of its investigation 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') but only in circumstances where the disagreement is either based on new facts or evidence which may have a bearing on the investigator's findings, or on the basis of a challenge of the facts and or evidence on which the investigator's findings relies, or in circumstances where the ombudsman determines it fair and reasonable to issue a determination.~~

Where the Legal Ombudsman has investigated a complaint, issued its findings to the parties and given the parties the opportunity to make representations on those findings, the complaint may be treated as resolved in accordance with those findings unless an Ombudsman considers that it is necessary and proportionate to issue a final decision.

- 5.20 ~~If neither party, in their response to the investigator's findings, indicates disagreement within that time limit, or in circumstances where no new facts or evidence has been provided in response to the investigator's findings, or where the disagreement is not based on a challenge of the facts or evidence on which the investigator's findings rely, the Legal Ombudsman may treat the complaint as resolved in accordance with the investigator's findings.~~

An Ombudsman may issue a final decision only where the Ombudsman considers that it is necessary and proportionate to do so. Without limitation, this may include circumstances where:

- a) a party has raised new facts or evidence which may materially affect the outcome;
- b) a party has identified a material error of fact or law in the investigator's findings; or
- c) the Ombudsman considers that a final decision is required to resolve a substantive dispute between the parties

- 5.21 Disagreement with the investigator's findings, does not in itself amount to grounds for an Ombudsman to issue a final decision. A party who wishes an Ombudsman to consider issuing a final decision must, set out the grounds relied upon. Without limitation, grounds may include that:

- a) new facts or evidence have been provided which may materially affect the outcome;
- b) a material error of fact or law has been identified in the investigator's findings;
- c) a material procedural unfairness has been identified in the investigation process; or
- d) there is a substantive dispute between the parties which cannot reasonably be resolved without an Ombudsman final decision.

Evidence

- ~~5.21~~ 5.22 An apology will not of itself be treated as an admission of liability.

- ~~5.22~~ 5.23 An ombudsman cannot require anyone to produce any information or document which that person could not be compelled to produce in High Court civil proceedings, and the following provisions are subject to this.
- ~~5.23~~ 5.24 An ombudsman may give directions on:
- a) the issues on which evidence is required; and
 - b) the way in which evidence should be given.
- ~~5.24~~ 5.25 An ombudsman may:
- a) take into account evidence from Approved Regulators or the Legal Services Board;
 - b) take into account evidence from other third parties;
 - c) treat any finding of fact in disciplinary proceedings against the authorised person as conclusive;
 - d) include/exclude evidence that would be inadmissible/admissible in court;
 - e) accept information in confidence where he/she considers that is both necessary and fair;
 - f) make a determination on the basis of what has been supplied;
 - g) draw inferences from any party's failure to provide information requested; and
 - h) dismiss a complaint if the complainant fails to provide information requested.
- ~~5.25~~ 5.26 An ombudsman may require a party to attend to give evidence and produce documents at a time and place specified by the ombudsman.
- ~~5.26~~ 5.27 An ombudsman may require a party to produce any information or document that the ombudsman considers necessary for the determination of a complaint.
- ~~5.27~~ 5.28 An ombudsman may:
- a) specify the time within which this must be done;
 - b) specify the manner or form in which the information is to be provided; and
 - c) require the person producing the document to explain it.
- ~~5.28~~ 5.29 If the document is not produced, an ombudsman may require the relevant party to say, to the best of his/her knowledge and belief, where the document is.
- ~~5.29~~ 5.30 If an authorised person fails to comply with a requirement to produce information or a document, the ombudsman:
- a) will tell the relevant Approved Regulator;
 - b) may require that Approved Regulator to tell the ombudsman what action it will take; and
 - c) may report any failure by that Approved Regulator to the Legal Services Board.
- ~~5.30~~ 5.31 Subject to this, if any party fails to comply with a requirement to produce information or a document, the ombudsman may enforce the requirement through the High Court.

Procedural time limits

~~5.31~~ 5.32 An ombudsman may fix (and may extend) a time limit for any stage of the investigation, consideration and determination of a complaint.

~~5.32~~ 5.33 If any party fails to comply with such a time limit, the ombudsman may:

- proceed with the investigation, consideration and determination;
- draw inferences from the failure;
- where the failure is by the complainant, dismiss the complaint; or
- where the failure is by the authorised person, include compensation for any inconvenience caused to the complainant in any award.

Hearings

~~5.33~~ 5.34 An ombudsman may hold a hearing where he/she considers that it is appropriate to do so in the circumstances. In deciding whether (and how) to hold a hearing, the ombudsman will take account of article 6 in the European Convention on Human Rights.

~~5.34~~ 5.35 A party who wishes to request a hearing must do so in writing, setting out:

- the issues he/she wishes to raise; and
 - (if appropriate) any reasons why the hearing should be in private;
- so, the ombudsman may consider whether:
- the issues are material;
 - a hearing should take place; and
 - any hearing should be in public or private.

~~5.35~~ 5.36 A hearing may be held by any means the ombudsman considers appropriate in the circumstances, including (for example) by phone.

Determinations and awards by an ombudsman

~~5.36~~ 5.37 An ombudsman will determine a complaint by reference to what is, in his/her opinion, fair and reasonable in all the circumstances of the case.

~~5.37~~ 5.38 In determining what is fair and reasonable, the ombudsman will take into account (but is not bound by):

- what decision a court might make;
- the relevant Approved Regulator's rules of conduct at the time of the act/omission; and
- what the ombudsman considers to have been good practice at the time of the act/omission.

~~5.38~~ 5.39 The ombudsman's determination may contain one or more of the following directions to the authorised person in favour of the complainant:

- to apologise;
- to pay compensation of a specified amount for loss suffered;

- c) to pay interest on that compensation from a specified time;
- d) to pay compensation of a specified amount for inconvenience/distress caused;
- e) to ensure (and pay for) putting right any specified error, omission or other deficiency;
- f) to take (and pay for) any specified action in the interests of the complainant;
- g) to pay a specified amount for costs the complainant incurred in pursuing the complaint;
- h) to limit fees to a specified amount.

~~5.39~~ 5.40 As a complainant does not usually need assistance to pursue a complaint with the Legal Ombudsman, awards of costs are likely to be rare.

~~5.40~~ 5.41 If the determination contains a direction to limit fees to a specified amount, it may also require the authorised person to ensure that:

- a) all or part of any amount paid is refunded;
- b) interest is paid on that refund from a specified time;
- c) all or part of the fees are remitted;
- d) the right to recover the fees is waived, wholly or to a specified extent;
- or
- e) any combination of these.

~~5.41~~ 5.42 An ombudsman will set (and may extend) a time limit for the authorised person to comply with a determination (and may set different time limits for the authorised person to comply with different parts of a determination).

~~5.42~~ 5.43 Any interest payable under the determination will be at the rate:

- a) specified in the determination; or
- b) (if not specified) at the rate payable on High Court judgment debts.

~~5.43~~ 5.44 There is a limit of £50,000 on the total value that can be awarded by the determination of a complaint in respect of:

- a) compensation for loss suffered;
- b) compensation for inconvenience/distress caused;
- c) the reasonable cost of putting right any error, omission, or other deficiency; and
- d) the reasonable cost of any specified action in the interests of the complainant.

~~5.44~~ 5.45 If (before or after the determination is issued) it appears that the total value will exceed £50,000, an ombudsman may direct which part or parts of the award are to take preference.

~~5.45~~ 5.46 That limit does not apply to:

- a) an apology;
- b) interest on specified compensation for loss suffered;
- c) a specified amount for costs the complainant incurred in pursuing the complaint;
- d) limiting fees to a specified amount; or
- e) interest on fees to be refunded.

Acceptance/rejection of determinations

- 5.46 5.47 The determination will:
- a) be in writing, signed by the ombudsman;
 - b) give reasons for the determination; and
 - c) require the complainant to notify the ombudsman, before a specified time, whether the complainant accepts or rejects the determination.
- 5.47 5.48 The ombudsman may require any acceptance or rejection to be in writing but will have regard to any reason why the complainant may be unable to use writing.
- 5.48 5.49 The ombudsman will send copies of the determination to the parties and the relevant Approved Regulator.
- 5.49 5.50 If the complainant tells the ombudsman that he/she accepts the determination, it is binding on the parties and final.
- 5.50 5.51 Once a determination becomes binding and final, neither party may start or continue legal proceedings in respect of the subject matter of the complaint.
- 5.51 5.52 If the complainant does not tell the ombudsman (before the specified time) that he/she accepts the determination, it is treated as rejected unless:
- a) the complainant tells the ombudsman (after the specified time) that he/she accepts the determination; and
 - b) the complainant has not previously told the ombudsman that he/she rejects the determination; and
 - c) the ombudsman is satisfied that there are sufficient reasons why the complainant did not respond in time.
- 5.52 5.53 If the complainant did not respond before the specified time, the ombudsman will notify the parties and the relevant Approved Regulator of the outcome, describing the provisions concerning late acceptance that are set out above.
- 5.53 5.54 If the complainant accepts or rejects the determination, the ombudsman will notify the parties and the relevant Approved Regulator of the outcome.
- 5.54 5.55 If a determination is rejected (or treated as rejected) by the complainant, it has no effect on the legal rights of any party.
- 5.55 ~~However, if after the determination the ombudsman becomes aware of either a procedural defect or a fundamental error contained within the determination which, in the ombudsman's reasonable opinion, renders it wrong or unsafe, then the ombudsman may withdraw the determination and provide a new determination, taking into account the procedural defect or fundamental error.~~
- 5.56 An Ombudsman may at any time correct an accidental slip, omission, or clerical error in a decision or determination. Such a correction does not affect the substance of the decision or determination.

Publication

~~5-56~~ 5.57 The Legal Ombudsman may publish a report of its investigation, consideration and determination of a complaint. The report will not name (or otherwise identify) the complainant, unless the complainant agrees.

Enforcement

~~5-57~~ 5.58 A binding and final determination can be enforced through the High Court or a county court by the complainant.

~~5-58~~ 5.59 A binding and final determination can also be enforced through the High Court or a county court by an ombudsman, if:

- a) the complainant agrees; and
- b) the ombudsman considers it appropriate in all the circumstances.

~~5-59~~ 5.60 A court which makes an enforcement order must tell the Legal Ombudsman, and then an ombudsman:

- a) will tell the relevant Approved Regulator;
- b) may require that Approved Regulator to tell the ombudsman what action it will take; and
- c) may report any failure by that Approved Regulator to the Legal Services Board.

Misconduct

~~5-60~~ 5.61 If (at any stage after the Legal Ombudsman receives a complaint) an ombudsman considers that the complaint discloses any alleged misconduct about which the relevant Approved Regulator should consider action against the authorised person, the ombudsman:

- a) will tell the relevant Approved Regulator;
- b) will tell the complainant that the Approved Regulator has been told;
- c) may require that Approved Regulator to tell the ombudsman what action it will take; and
- d) may report any failure by that Approved Regulator to the Legal Services Board.

~~5-61~~ 5.62 If an ombudsman considers that an authorised person has failed to cooperate with the Legal Ombudsman, the ombudsman:

- a) will tell the relevant Approved Regulator;
- b) may require that Approved Regulator to tell the ombudsman what action it will take; and
- c) may report any failure by that Approved Regulator to the Legal Services Board.

~~5-62~~ 5.63 An ombudsman, the Legal Ombudsman and members of its staff will disclose to an Approved Regulator any information that it requests in order to investigate alleged misconduct or to fulfil its regulatory functions, so far as an ombudsman considers that the information:

- a) is reasonably required by the Approved Regulator; and
- b) has regard to any right of privacy of any complainant or third party involved (including rights of confidentiality or rights under the Data Protection Act 1998 and the General Data Protection Regulation 2018 or the Human Rights Act 1998)

6 Case fees payable by authorised persons

~~6.1—A complaint is potentially chargeable unless:~~

- ~~a) it is out of jurisdiction; or~~
- ~~b) it is dismissed or discontinued under paragraph 5.7.~~

~~6.2—A case fee is payable by the business/partnership or individual authorised person for every potentially chargeable complaint when it is closed unless:~~

- ~~a) the complaint was:~~
 - ~~- abandoned or withdrawn; or~~
 - ~~- settled, resolved or determined in favour of the authorised person; and~~
- ~~b) the ombudsman is satisfied that the authorised person took all reasonable steps, under his/her complaints procedures, to try to resolve the complaint.~~

~~6.3.1—The case fee is £400 for all chargeable complaints.~~

~~6.4—The remaining costs of running the Legal Ombudsman are covered by a levy on Approved Regulators by the Legal Services Board.~~

~~6.5—There is no charge to complainants.~~

6.1 A complaint within the Legal Ombudsman's jurisdiction is chargeable for the purposes of section 136 of the Act, subject to Rules 6.2 to 6.7.

6.2 A case fee is payable by the business, partnership or individual authorised person in respect of a chargeable complaint when that complaint is closed, unless the case fee is waived under Rule 6.3.

6.3 The Legal Ombudsman will waive the case fee where:

- a) the complaint was:
 - abandoned or withdrawn by the complainant; or
 - settled, resolved, or determined in favour of the authorised person, or
 - dismissed or discontinued under Rule 5.7; and
- b) the Ombudsman is satisfied that the authorised person took all reasonable steps under its complaints procedures to try to resolve the complaint without the need for referral to the Legal Ombudsman.

6.4 Where a case fee is chargeable under Rule 6.2 and has not been waived under Rule 6.3, the amount payable depends on the stage in the Legal Ombudsman process at which the complaint is closed:

- a) complaints resolved by way of Early Resolution: £200 per complaint;
- b) complaints resolved by way of investigation, but not requiring an Ombudsman's final decision: £750 per complaint; and
- c) complaints resolved by way of an Ombudsman's final decision: £1,500 per complaint.

6.5 Where an authorised person has not provided a final written response to a complaint within eight weeks of receiving it, an additional fee of £400 is

payable when the complaint is closed, unless the complaint was accepted by the Legal Ombudsman under Rule 4.3 before that eight-week period expired.

- 6.6 The remaining costs of running the Legal Ombudsman are covered by a levy on Approved Regulators by the Legal Services Board.
- 6.7 There is no charge to complainants.