Final Decision

Date: 21 May 2025

Introduction

The background to this matter is that Mrs A instructed Twomlows Limited ("the firm") to advise and assist her in relation to two property matters in or around July XXXX.

The first instruction was from Mrs A in her capacity as executor of her father's estate. This was to transfer two properties ("the M properties") into the names of her and her three daughters as set out in her father's will. Also, to deal with the first registration of the M properties, as they were unregistered.

I wish to clarify that whilst I am aware that Mrs A did seek advice from the firm, in or around October and November XXXX, after her father died on XXXX. Mrs A did not instruct the firm to administer her father's estate or do any work in relation to her father's estate. She only instructed the firm to do the conveyancing work relating to the M properties.

The second instruction from Mrs A was to transfer a buy to let property, owned in her sole name, into the joint names of her and her eldest daughter. This transfer aimed to equalise matters between her three daughters. As in the past, Mrs A had helped two of her daughters and wished to do the same for her third daughter.

Work was done by the firm to complete the necessary documentation for both instructions. The relevant applications for both instructions were sent to the Land Registry in XXXXX. Requisitions were raised on both applications by the Land Registry in XXXXX. In or around XXXXX, all the applications made were cancelled.

Mrs A contacted the firm in May, June, July and August XXXX to find out what had happened to the applications. An update was provided to Mrs A in August. On X X and XX September XXXX Mrs A instructed the firm to do no further work until they had discussed matters with her.

On XX September XXXX the firm told Mrs A that the application for first registration of the M properties had been sent to the Land Registry. This application was completed in XXXXX.

Mrs A complained to the firm on XX August, XX September and XX October XXXX. She referred her complaint to the Legal Ombudsman on XX November XXXX. The complaint was accepted for investigation on XX December XXXX.

The investigation of the complaint was suspended in April XXXX. Mrs A raised further complaints with the firm on XX May XXXX. On XX December XXXX the firm said they were unable to do any further work for Mrs A. This was because the firm felt the trust necessary between a solicitor and client ceased to exist because Mrs A was actively pursuing her complaints through the Legal Ombudsman. At this time the Legal Ombudsman's investigation continued.

Complaints

Mrs A remains unhappy with the firm's service and the complaints accepted for investigation by this office are that:

1. The firm caused delays;
2. The firm failed to provide updates and/or respond to Mrs A's requests for information;
3. The firm failed to respond to concerns Mrs A raised when she raised her complaint and failed to follow her instructions to contact her and explain matters before continuing with outstanding work;
4. The firm provided incorrect tax advice in respect of the transfer of equity which it was not qualified to provide;
5. The firm provided poor advice when it advised Mrs A that the two properties that required first registrations, could be registered as one, rather than separately;
6. The firm failed to complete the first registration applications correctly with the Land Registry, meaning the plans are incorrect and the boundary is not accurate;
7. The firm failed to register the properties in the order they originally advised would be best, affecting the Stamp Duty that Mrs A paid; and
8. The firm has failed to adequately address Mrs A's further complaint of XX May XXXX in writing as well as further subsequent follow ups.

Legal Ombudsman Case Decisions and Provisional Decisions

Mrs A's complaints were investigated and a Case Decision sent on 14 September 2022. In this my colleague found the firm's service to be unreasonable in relation to complaints one to seven and reasonable for complaint eight. The firm were directed to pay Mrs A £750 as a remedy for the unreasonable service.

Mrs A rejected the Case Decision and provided comments and evidence having sought legal advice.

On 6 March 2023 a new Case Decision was sent. The findings on service remained the same but the remedy was different. The firm were directed to pay Mrs A £4,213.60. This was made up of £3,053.60 including VAT of legal costs Mrs A had incurred, £150 mortgage fee application and £1,000 compensation. In addition, it was directed that the firm waive the £200 registration fee for the transfer of equity and all their fees of £1,020 including VAT.

The firm accepted this Case Decision and did not provide any comments. Mrs A rejected it and provided comments.

I would say that whilst Mrs A was pleased that this Case Decision accepted the vast majority of points she had made she did not accept the remedy. She did not feel that it fully addressed her losses. Her comments were therefore mostly in relation to the remedy.

Due to the fact that Mrs A had rejected my colleague's Case Decision the case was referred to me to make a Final Decision.

At this stage, I wish to say that I understand that both parties have been waiting a long time for this decision and that the matters that the complaint relates to took place some five or six years ago.

When I reviewed the complaint, I was of the view that Mrs A, if she wished to put a case to recover some of the losses she was seeking, particularly the stamp duty land tax (SDLT) and capital gains tax (CGT), needed to go away and quantify her losses. I did not guarantee recovery of the losses she was seeking. However, I made clear I could not necessarily award the losses she was seeking if they had not been quantified. I also understand that it would have been necessary, at some point, for Mrs A to have completed the outstanding work anyway.

This understandably took Mrs A some time to do. I consider that it was reasonable to give Mrs A the time to do this to ensure that I was fair and reasonable to both parties. I wish to recognise that the firm are frustrated by the time this complaint has taken.

I also wish at this point to recognise that Mrs A has been struggling with the stress of this issue. As well as the fall out caused by the requirement for her to source substantial sums to pay for the tax losses and costs she has incurred in resolving the issues. Alongside having to deal with these issues I am aware that Mrs A is the full time carer for her disabled husband and has been battling health issues of her own. I have seen a letter dated 24 April 2025 from Mrs A's GP identifying her as vulnerable.

I do appreciate that this has been and continues to be a very difficult situation for Mrs A. I do not doubt that she has struggled with the stress of dealing with these issues. I am very sorry to hear that.

When Mrs A returned to the Legal Ombudsman having quantified her losses I reviewed all the relevant evidence that was sent in during my colleague's investigation. I also carefully considered all the comments that Mrs A provided in response to the Case Decision of 6 March 2023.

Having reviewed all the relevant evidence and considered all the comments made since the Case Decision of 6 March 2023 I reached a significantly different conclusion to my colleague on both service and remedy. I therefore issued a Provisional Decision dated 7 November 2024.

In this, I found the firm's service to be unreasonable in relation to complaints one, two, three, four and six and reasonable for complaints five, seven and eight. As I reached a different conclusion to my colleague on service, I also reached a significantly different conclusion on the remedy. I directed that the firm waive all their fees in relation to the transfer of equity and pay Mrs A £31,251.51 as a remedy for the unreasonable service I had found.

Both the firm and Mrs A rejected my Provisional Decision of 7 November 2024 and provided comments in response. Most of the comments related to the remedy I directed.

Having reviewed all the comments on my Provisional Decision, whilst I reached the same conclusion on the firm's service, I reached a significantly different conclusion on the remedy. I therefore issued a Second Provisional Decision on 26 March 2025 to give both the firm and Mrs A an opportunity to comment before I made a Final Decision.

In my Second Provisional Decision I found the firm's service to be unreasonable in relation to complaints one, two, three, four and six and reasonable in relation to complaints five, seven and eight.

As a remedy for this unreasonable service I directed that the firm waive all their fees in relation to the transfer of equity and pay Mrs A £14,376.51. This was made up of £12,359.51 including VAT being 50% of the costs, fees and disbursements incurred in dealing with the transfer of equity, £1,017 Stamp Duty interest and penalties and compensation of £1,000.

The firm have accepted my Second Provisional Decision and not provided any comments in response. I wish to be clear that the firm are aware that Mrs A has

rejected my Second Provisional Decision and have been given the opportunity to provide comments but have not done so.

Mrs A has rejected my Second Provisional Decision and provided comments in a letter dated 25 April 2025. Those comments relate in large part to the remedy and so most will be dealt with in the Summary and Remedy section below.

As Mrs A has rejected my Second Provisional Decision the case has been referred back to me to make a Final Decision. Having reviewed all the comments on my Second Provisional Decision I have decided that my provisional view as set out in my Second Provisional Decision is reasonable.

Where appropriate, I will refer to any comments below. However, where a comment or piece of evidence has not been specifically referred to, it does not mean that it has not been considered.

Decision

Before I set out my decision I wish to explain that my role as an ombudsman is to determine a complaint by reference to what is, in my opinion, fair and reasonable in all the circumstances of the case.

When determining what is 'fair and reasonable', I am expected to take into account (but I am not bound by) what decision a court might make, relevant regulatory rules and what I consider to be good practice.

I confirm that I have taken such factors into account, and the decision that I set out below, is what, in my opinion, I consider to be fair and reasonable in all the circumstances of the case.

I will now set out my decision taking each complaint in turn.

I would note that no substantive comments have been made by either Mrs A or the firm in relation to my findings on service. The comments in response to both my Provisional Decision and Second Provisional Decision have focused in the main on the remedy I have directed.

Therefore, I wish to be clear that my findings on service as set out below in relation to complaints one to eight mirror those set out in both my Provisional and Second Provisional Decision.

1. The firm caused delays.

1.1. In his Case Decision of 6 March 2023 my colleague concluded that the firm's service was unreasonable because they caused delays when they failed to deal with requisitions from the Land Registry in XXXXX. Also, they failed to do any further work until August XXXX.

1.2. No comments have been provided about this complaint in response to the Case Decision, my Provisional Decision or my Second Provisional Decision.

1.3. Mrs A instructed the firm in July XXXX. From then until September XXXX, I am satisfied from the evidence I have seen, that the firm progressed matters within a reasonable time, in the circumstances, and advised Mrs A. As a result, my decision is that during this period the firm did not delay matters.

1.4. I say this because emails were exchanged between Mrs A and the firm throughout July and August. The firm then contacted the mortgage company at the end of August to obtain their consent to the transfer of equity of the buy to let property. In September, Mrs A provided the firm with her daughter's identification.

1.5. The firm asked Mrs A for further instructions on XX September. The transfer deeds for the M properties were sent to Mrs A on XX September. On XX October Mrs A provided the firm with details of the managing agent of the buy to let property.

1.6. There was a gap between XX October and XX November when there is no evidence of any work being done by the firm.

1.7. However, it was on XX November that the firm wrote to Mrs A and confirmed they had everything for the M properties. They also said that all the necessary paperwork had been sent to the mortgage company concerning the buy to let property. At this time the firm apologised for their delay explaining this had been due to the fee earner being on holiday and then ill.

1.8. There was therefore an explanation provided for the delay. I am satisfied this was explained to Mrs A at the earliest opportunity and an apology provided. In the circumstances, I therefore consider, given that this was only a month, this delay was reasonable. This is because there will be times when a fee earner is unable to work. In a perfect world, someone would step in to do the work, but sometimes this is not practical.

1.9. This delay was for a relatively short period of time an explanation and apology were provided promptly, and the firm ensured the work was completed promptly on the fee earner's return. I therefore consider that the firm's service in the circumstances was reasonable.

1.10. After this, the transfer relating to the M properties was signed on XXXX and sent to the Land Registry on or around XXXX together with the application for first registration. This is based on the two Land Registry acknowledgements dated XXXX confirming receipt of the application relating to the M properties.

1.11. The transfer of equity relating to the buy to let property was dated XXXX after being signed by the mortgage company. I have seen no evidence of the date this was sent to the Land Registry. The firm has said it was sent in XXXX, but I have seen no evidence of this.

1.12. The confirmation details acknowledging receipt of this application from the Land Registry are dated XXXX. On the balance of probabilities therefore, my decision is, that it is more likely than not that it was sent to the Land Registry by the firm on or around XXXX when the Land Registry acknowledged receipt of it.

1.13. I am aware that this contradicts the firm's email of XX January XXXX, when the firm said that all the applications were submitted to the Land Registry before the Christmas break. However, I have seen no evidence the transfer of equity relating to the buy to let property was sent before Christmas as the firm say.

1.14. On XXXX the Land Registry raised requisitions and said they were unable to complete the application in relation to the M properties without further information. The Land Registry chased for a response on XXXX. At this time, they said the application would be cancelled on XXXX if no response was received. On XXXX the firm received notification the application had been cancelled because the Land Registry had not received a response.

1.15. In relation to the transfer of the buy to let property, the Land Registry wrote to the firm on XXXX raising requisitions saying they were unable to complete the application until further matters were dealt with. This letter stated the cancellation date would be XXXX. I have seen no further correspondence from the Land Registry in relation to the buy to let property. However, I understand it is not disputed that this application was also cancelled.

1.16. There is no evidence that the firm responded to any of this communication from the Land Registry. I am therefore satisfied that the firm delayed in dealing with the requisitions the Land Registry raised.

1.17. The firm has commented that XXXX caused issues in them responding to the requisitions raised by the Land Registry. I do not agree with this. Whilst XXXX was an issue that XXXXX. It was not until XX March XXXX that XXXXX.

1.18. I am satisfied that the Land Registry requisitions were received well before XXXXX as they were dated in XXXX and the beginning of XXXX. Therefore, in the circumstances, I am satisfied it would have been reasonable for the firm to have dealt with them and/or responded to them within the deadline.

1.19. At the very least I would have expected the firm to have asked for more time to respond and take steps to respond to them. There is no evidence the firm did any work in January or February prior XXXXX.

1.20. I will now move on to look at whether the firm delayed after March XXXX. During this period, I accept that XXXXX. The evidence shows me that Mrs A telephoned and emailed the firm in May, June, July, August and September XXXX. Whilst the firm did respond in June XXXX. They then did not respond to any of her communications until August XXXX.

1.21. I have also seen no evidence the firm did any work on Mrs A's file until on or around XX September XXXX.

1.22. The firm has said that the fee earner dealing with the matter was XXXXX and then after returning to work left the firm. However, I would have expected the firm to have a mechanism in place to deal with incoming communications by May XXXX. XXXXX. However, I would have expected the firm to respond to incoming communications to explain when a client may hear from them. Even if this was a holding response to provide details of how a client's communication would be dealt with. The firm did not do this.

1.23. Ultimately, I have seen no evidence that the firm did any work from January until September XXXX, a period of eight months. My decision is this delay in the circumstances was unreasonable.

1.24. In conclusion, my decision is that the firm's service was unreasonable as they did delay in dealing with matters. This was when they delayed in responding to the Land Registry's requisitions and when they did not do any work from January until September XXXX.

1.25. I will deal with the detriment of this unreasonable service and any remedy in the Summary and Remedy section below.

2. The firm failed to provide updates and/or respond to Mrs A's requests for information.

2.1. In his Case Decision of 6 March 2023 my colleague concluded that the firm's service was unreasonable when they failed to provide updates and failed to respond to requests for information from January until August XXXX.

2.2. No comments have been provided about this complaint in response to the Case Decision, my Provisional Decision or my Second Provisional Decision.

2.3. I have seen that in an email on XXXX the firm confirmed to Mrs A that all the applications had been made and she would be contacted once they heard anything further.

2.4. I can see from emails that Mrs A sent the firm that she telephoned them in May XXXX. She emailed the firm in June as she had not heard anything from them. On XX June XXXX they said they would be getting Mrs A's file to establish the position.

2.5. Mrs A then emailed the firm on XX, XX and XX July and XX August. She also telephoned the firm's offices on XX and XX July. There is no evidence that the firm responded to any of these communications.

2.6. The firm did respond to Mrs A's email of XX August on XX August to say that they would provide a full update as soon as they could. Mrs A emailed the firm again on XX and XX August. In her last email she requested the firm's complaints procedure.

2.7. In response, on XX August the firm provided an update. In her email, in response, Mrs A asked for details of the work done to date and what work needed to be done. Mrs A chased the firm again on XX and XX September. It was by email on XX September that the firm responded to clarify the position.

2.8. My decision is that the firm's service was unreasonable because there is no evidence they provided any updates after January XXXX until these were requested by Mrs A. Also, throughout May, June, July and August the firm failed to respond to requests from Mrs A for an update and for information.

2.9. I will deal with the detriment of this unreasonable service and any remedy in the Summary and Remedy section below.

3. The firm failed to respond to concerns Mrs A raised when she raised her complaint and failed to follow her instructions to contact her and explain matters before continuing with outstanding work.

3.1. In his Case Decision of 6 March 2023 my colleague concluded that the firm's service was unreasonable because they were slow to address Mrs A's

complaints, failed to address all her concerns and did not stop acting for her when she requested. In addition, the firm also refused to speak to Mrs A on the phone without a reasonable explanation.

3.2. No comments have been provided about this complaint in response to the Case Decision, my Provisional Decision or my Second Provisional Decision.

3.3. I will deal firstly with the first part of this complaint which is whether or not the firm responded to concerns raised by Mrs A when she raised her complaint. Mrs A raised a complaint on XX August asking for an update in writing. The fee earner did respond on XX August 2020 but simply said they would be in touch "*as soon as I can*".

3.4. In her email of XX August, Mrs A asked for an update within seven days. She asked for the firm's complaint handling procedure on XX August. It was in response, on XX August, that the firm set out the position. Which was that all the applications had been cancelled. They also gave details of the new fee earner dealing with matters and what they were doing.

3.5. In an email on XX August Mrs A requested a full update of the present position and proposals for a conclusion within 28 days. She set out in six bullet points what she was asking the firm to do.

3.6. Mrs A chased the firm for a response on XX September. It was then she asked them to contact her and explain matters before continuing with the outstanding work. On XX September the firm set out what had happened and the current position. This included the fact that the application for first registration of the M properties had been sent to the Land Registry.

3.7. I am therefore satisfied that the firm did respond to Mrs A's complaint and her communications in August on XX September. This is because at this time they set out what had happened and what the firm were doing.

3.8. As a result, I am of the view that the firm's service was reasonable because they did respond to the concerns Mrs A raised when she complained on XX August XXXX.

3.9. I will now turn to address the second part of the complaint. This is whether or not the firm failed to follow Mrs A's instructions to contact her and explain matters before continuing with outstanding work.

3.10. This relates to the email Mrs A sent the firm on XX September. In this Mrs A said to the firm she "*would really appreciate it if you could contact me and explain matters before continuing with the outstanding work*".

3.11. In an email on XX September the firm confirmed that the application for first registration of the M properties had been completed and submitted to the Land Registry. I have also seen that on XX September the firm contacted the mortgage company about the buy to let property.

3.12. Therefore, I am satisfied that the firm did not follow Mrs A's clear instructions on XX September not to do any further work until they had contacted her and explained matters.

3.13. My decision is therefore that the firm's service was unreasonable when they failed to follow Mrs A's instructions on XX September to contact her and explain matters before continuing with the outstanding work.

3.14. I will deal with the detriment of this unreasonable service and any remedy in the Summary and Remedy section below.

4. The firm provided incorrect tax advice in respect of the transfer of equity which it was not qualified to provide.

4.1. In his Case Decision of 6 March 2023 my colleague concluded that the tax advice the firm provided Mrs A was incorrect.

4.2. No comments have been provided about this complaint in response to the Case Decision, my Provisional Decision and my Second Provisional Decision.

4.3. This complaint relates to advice Mrs A says the firm provided her that there would be no capital gains tax ("CGT") or stamp duty land tax ("SDLT") payable, either by her or her eldest daughter, when the buy to let property was transferred from Mrs A's sole name into the names of her and her eldest daughter.

4.4. Mrs A says that she decided to go ahead with the transfer of equity of the buy to let property based on this advice. She says had the firm's advice been correct, that she would have to pay CGT and SDLT, she would not have proceeded with the transfer of equity.

4.5. I have seen that Mrs A emailed the firm on XX August XXXX and said she would like to sort out the situation regarding the transfer of equity as soon as possible. She said "*I need to know what charges I may have to pay in relation to this. i.e. Stamp Duty and Capital Gains Tax*." I wish to confirm at this stage from reading this email I am satisfied the transfer of equity spoken about here by Mrs A was concerning the buy to let property.

4.6. I say this because from considering the contents of this email I am satisfied that Mrs A is only asking questions in the email relating to the buy to let property and the proposed transfer of equity. This is because at no time does she refer to the M properties.

4.7. In the email in response sent the same day the firm said:

> "*According to a meeting I have with my Senior Partner at the end of last week if you gift any equity in a property to any of your daughters – even though they may already own other property – you should not incur any stamp duty liability (& obviously neither should any of your daughters).*"

4.8. The rest of the paragraph goes on to talk about the gift that Mrs A was making to each of her three daughters of a third interest in both unregistered properties, the M properties. I would say here that Mrs A was not gifting anything to her daughters in relation to the M properties. The transfers in relation to those properties were to give effect to the terms of Mrs A's father's will. I would also add that Mrs A did not ask in her original email about the M properties.

4.9. I can understand why Mrs A would rely on this email as being advice that she would not have to pay SDLT for the transfer of equity of the buy to let property. This being the only instruction to the firm to transfer equity. Also, because this was the specific question asked by her in the email the firm were responding to.

4.10. The firm in their email went on to say:

> *"As to Capital Gains – I am only permitted to give generic advice but you are gifting away a significant proportion of your estate and therefore this could be classed as a loss – as opposed to a Capital Gain and hence no tax should apply."*

4.11. gain, the email from the firm was in response to a specific question from Mrs A, as to whether she would pay CGT on the transfer of equity of the buy to let property. I am satisfied that it was reasonable for Mrs A to rely on this as advice from the firm that she would not incur a CGT liability on the transfer of equity.

4.12. Therefore, I am of the view that in this email the firm did give advice on both SDLT and CGT liability in relation to the transfer of equity of the buy to let property. Specifically, the advice was that Mrs A and her daughters would not have to pay any SDLT or CGT in relation to that transaction.

4.13. As I have found, this was the advice the firm gave Mrs A. I must now ask myself whether or not that advice was reasonable in the circumstances.

4.14. The Land Registry's requisitions concerning the buy to let property dated XXXX asked the firm to either provide a Land Transaction Return certificate or a Submission Receipt or confirm whether the transfer was an exempt transfer. The requisition stated that Stamp Duty may be payable in cases where a transferee assumes an existing debt. In this case, Mrs A's daughter did assume an existing debt as she was becoming liable with Mrs A for the mortgage.

4.15. I also have evidence that Mrs A was advised by her new solicitor and accountant that she would have to pay SDLT and CGT concerning the transfer of equity of the buy to let property. She has now paid this.

4.16. I have also not been provided with, or seen, any evidence to support the advice given by the firm that SDLT or CGT would not be payable by Mrs A on the transfer of equity of the buy to let property.

4.17. In terms of SDLT it was clear that the mortgage was also being transferred into joint names as shown by the letter from the mortgage company of XX August XXXX. The assumption of liability for an existing debt (an existing mortgage) is chargeable consideration for SDLT. Therefore, I am satisfied that SDLT would always have been payable. I am also of the view that based on the information they had, the firm ought reasonably to have known that.

4.18. Turning then to CGT. It is also clear from the evidence of the new solicitor and accountants that CGT was always payable in relation to the transfer of equity of the buy to let property. I note that the only transfers exempt from CGT, depending on the nature of the transfer, are to a spouse, civil partner or charity. Therefore, I am of the view that as the transfer to Mrs A's daughter, there was always a possibility that the transfer of equity of the buy to let property may trigger a CGT liability. I am also satisfied that the firm ought reasonably to have known that.

4.19. Even if the firm had not known what the liability was, I would have expected the firm in the circumstances to have advised Mrs A that there may be a potential liability. In addition, I would have reasonably expected a firm, not necessarily to give advice, but to recommend Mrs A seek specialist advice, for example, from her accountant.

4.20. Therefore, my decision is that the firm's service was unreasonable. This is because their advice that no SDLT or CGT would be payable on the transfer of equity of the buy to let property was clearly wrong.

4.21. I will deal with the detriment of this unreasonable service and any remedy in the Summary and Remedy section below.

5. The firm provided poor advice when it advised Mrs A that the two properties that required first registrations, could be registered as one, rather than separately.

5.1. In his Case Decision of 6 March 2023 my colleague concluded that the firm's service was unreasonable because the firm failed to explain Mrs A's options to her.

5.2. The firm has not provided any comments in response to this complaint. Mrs A did not provide any comments in response to this complaint to the Case Decision and my Second Provisional. She did provide comments in response to my Provisional Decision which I have dealt with below.

5.3. It is not disputed that the firm advised Mrs A to register the two M properties as one property. As I understand it Mrs A's position is that the firm's advice did not go far enough. I understand she is saying that the firm's advice was poor because the firm failed to advise her of the possible negative consequences of registering the M properties in this way. As well as the potential issues that may arise.

5.4. However, what I must ask myself, when making a decision on this complaint, is whether or not the advice the firm gave to Mrs A to register the M properties as one at first registration was, in all the circumstances at the time the advice was given, reasonable advice.

5.5. I wish to start by saying that the properties this complaint relates to were owned by Mrs A's father. They were being transferred to Mrs A and her three daughters in line with her father's will. I understand that Mrs A was left a half share of both properties. Her three daughters were left the other half share of both properties in equal shares.

5.6. It appears from what I have seen that Mrs A and her daughters decided not to sell the M properties. This is why Mrs A's instructions, as executor of her father's estate, were to transfer the properties into the names of her and her three daughters. Both properties were unregistered, so the firm were also instructed to deal with the first registration of both properties. I note that the firm did not deal with the administration of Mrs A's father's estate and were only dealing with these specific conveyancing matters.

5.7. From the firm's emails of XX August and XX September XXXX, and the letter of XX September XXXX, I can see that, initially, the plan was to register the properties separately. I say this because in this correspondence reference is made to two transfer deeds or multiple transfer deeds

5.8. I have no evidence of when the firm's advice changed. However, I am aware that around the beginning of October XXXX a meeting took place at the properties. The firm and Mrs A were present at this meeting. I understand the purpose of the meeting was to establish the precise boundaries for each property for the purposes of first registration.

5.9. It was at this meeting, Mrs A said in her complaint to the firm on XX May XXXX, that the firm suggested registering the properties as one property instead of two. There is no evidence of the advice given by the firm at this meeting. On the balance of probabilities, however, I am satisfied that it is more likely than not that at this meeting Mrs A was advised she had two options. One was to register the two properties separately. The second was to register the two properties as one. I will now explain why I have reached this conclusion.

5.10. The first evidence I have seen which mentions registering the two properties as one is an email on XX October XXXX. This was after the meeting took place. I wish to emphasise that before this email there is no evidence that registering the two properties as one was ever discussed or mentioned. In this email, Mrs A says that having talked to her daughters, they were all happy to register the properties as one. I can also see from an email that Mrs A sent to one of her daughters on XX October that this is what they instructed the firm to do.

5.11. This shows me that it was not until after this meeting that any mention was made of registering the two properties as one. Up until the email on XX October XXXX all the evidence shows me that it was the intention of Mrs A, her daughters and the firm to register the two properties separately.

5.12. Now I have established that I am satisfied the advice was given by the firm I will consider whether that advice was reasonable. My view is that registering the two properties as one was an option open to Mrs A and her daughters. As a result, I do not consider the firm's advice, in the circumstances, was unreasonable.

5.13. Mrs A has raised that the firm's advice did not go far enough. The issue here is that there is no evidence of the actual advice that was given. So, I have no evidence of what was said, if anything, of the strengths and weaknesses of either option.

5.14. Without evidence of the exact advice given by the firm I am reliant on other evidence to come to a conclusion on whether the advice given went far enough. I note that Mrs A was clearly aware that when she came to sell or mortgage either of the properties then work would have to be done to split the titles.

5.15. This is based on the fact that emails were exchanged regarding the boundaries on XX and XX September and a site visit took place in order to establish the boundaries. This shows, in my view, that Mrs A was aware that establishing the boundaries would not be straightforward, and work would be involved in doing this.

5.16. This is also shown to me by Mrs A's email to her daughter on XX October XXXX when she said that they wouldn't need to be specific about the division of the outhouses and internal outside walls until such time as they decided to sell. I am therefore satisfied Mrs A was aware that the boundaries of the property would need to be established when the properties were sold.

5.17. On the basis that this is advice that the firm could give in the circumstances, together with the fact that Mrs A clearly understood that work would be required when the properties were sold, I am satisfied that in the circumstances the advice was reasonable.

5.18. I wish to confirm at this stage that I am not looking for perfect service. What I am looking at is whether or not the service was reasonable in all the circumstances at the time the advice was given. I place emphasis here on whether or not the service was reasonable in the circumstances at the time it was given. It is often easy to say with the benefit of hindsight that different advice should have been given. Particularly, in this case given the boundary dispute that has arisen. Ultimately, Mrs A made a choice to register the properties as one knowing that she could register them as separate properties.

5.19. I wish to be clear that I have taken into account the advice Mrs A has received from her new solicitors. This is that advice to register the two properties as one is at best questionable. Their view is that both properties are entirely distinct and it simply creates a complication to be dealt with at a later date. It is their view that either Mrs A will need to split the titles to sell the property or enter into a transfer of part. They say that selling in this manner is more complicated and likely to be a lengthier and more costly process.

5.20. However, I am satisfied, as explained above, that Mrs A was aware, at the time she instructed the firm to register the properties as one, that work would need to be done to separate the titles of the properties at some point. This was from her meeting with the firm at the property to look at the boundaries. It is further demonstrated by her email with her daughter on XX October that said when they sold the properties, the divisions of the two properties would have to be dealt with.

5.21. This is also confirmed to me by an email Mrs A sent to the firm on XX September XXXX in which she referred to flying freeholds, shared out buildings,

a section of land purchased from a neighbour, extensions and that the central dividing line had been altered. She went on in that email to say that the firm's advice was that this need not be addressed when registering the properties and could be dealt with if either property was sold.

5.22. It is clear to me therefore, that a discussion took place between Mrs A and the firm about the options available. The firm gave Mrs A another option. One that Mrs A decided to proceed with, fully aware that work would need to be done when either of the properties were sold.

5.23. Mrs A has commented that she was assured by the firm when she attended the property that they could provide a land registry compliant plan for the outer boundaries of the two properties. However, given the internal boundaries between the two properties had been altered by her father she was concerned about the accuracy of the two properties individually required for registration.

5.24. She says that because the cost of the two options was comparable it was the inaccuracy of measurements of the properties individually that influenced her decision on registration.

5.25. I have noted and considered what Mrs A has said but I do not consider that the reasons why Mrs A chose to instruct the firm to register the two M properties as one is relevant to my decision. This is because my decision relates to whether or not the advice given by the firm was reasonable in the circumstances.

5.26. I am satisfied that it was reasonable advice in the circumstances at the time the advice was given. Therefore, my decision is that the firm's service was reasonable in relation to this complaint.

6. The firm failed to complete the first registration applications correctly with the Land Registry, meaning the plans are incorrect and the boundary is not accurate.

6.1. In his Case Decision of 6 March 2023 my colleague concluded that the firm's service was unreasonable. This was because they submitted the application for first registration with a plan without Mrs A's instructions.

6.2. No comments have been provided on this complaint in response to the Case Decision, my Provisional Decision and my Second Provisional Decision.

6.3. It is not disputed that first registration of the M properties has been completed.

6.4. The issue at the heart of this complaint is Mrs A's view that had the application for first registration been completed successfully the first time, a boundary

dispute would not have arisen. Also, the application was not completed correctly the second time because the plan sent with the application was, in her view, incorrect.

6.5. The requisitions raised by the Land Registry on XXXX show that questions had been raised about the extent of the property sought to be registered. The firm failed to respond to the requisitions. As a result, the application was cancelled. I am satisfied therefore, that the firm did fail to complete the first registration application they made in XXXX correctly.

6.6. The second application for first registration was completed by the firm in XXXX. The issue Mrs A had with that application was the plan submitted with the application. I am satisfied that this is an essential part of the application.

6.7. I note that the application was sent to the Land Registry after Mrs A had told the firm not to do any further work. Also, there is no evidence that Mrs A approved the plan sent with the application.

6.8. Regardless of whether the plan was correct, I would have expected the firm, as part of a reasonable service, to get Mrs A's agreement and approval to any plan. Particularly in this case, because the firm were aware from the Land Registry requisitions in XXXX that the neighbours had made an application for first registration or that they were likely to do so or had done so. This was all the more important in this case because the firm were aware, from attending the properties, that the boundaries of these properties were not straightforward.

6.9. As the plan is such an integral part of an application for first registration, I consider the firm's failure to get Mrs A's approval of the plan to be a failure by them to complete the application correctly.

6.10. My decision is therefore that the firm's service was unreasonable. This is because the firm failed to complete the first registration application correctly with the Land Registry in XXXX, as this application was cancelled due to the firm's failure to respond to the requisitions. As well as in XXXX when they failed to obtain Mrs A's approval of the plan before submitting the application.

6.11. I will deal with the detriment of this unreasonable service and any remedy in the Summary and Remedy section below.

7. The firm failed to register the properties in the order they originally advised would be best, affecting the Stamp Duty that Mrs A paid.

7.1. In his Case Decision of 6 March 2023 my colleague concluded that the firm's service was unreasonable because the firm submitted the applications for first

registration again in XXXX without any consideration as to the tax implications this may have.

7.2. The firm has not provided any comments in response to this complaint. Mrs A did not provide any comments in response to this complaint, to the Case Decision and my Second Provisional. However, she did provide comments in response to my Provisional Decision which I have dealt with below.

7.2. This complaint is, as I understand it, about the fact the firm did not deal with the registration of the transfer of equity before the applications for first registration and transfers in relation to the M properties. This is something Mrs A says the firm advised her to do and said they would do.

7.3. This, Mrs A says, was to reflect her instructions to preserve her eldest daughter's first time buyer status, on the transfer of equity, to avoid any uplift of stamp duty payable.

7.4. Mrs A's view is that by completing the registration of the applications for first registration and the transfer for the M properties before the registration of the transfer of equity, her eldest daughter is no longer classed as a first-time buyer. This is because she now owns an interest in the M properties.

7.5. The complaint accepted for investigation is specifically that the firm failed to register the properties in the order they originally advised was best. I have seen no evidence that the firm advised that the work they were instructed to do should be done in a particular order. I would also add that I have seen no evidence that Mrs A instructed the firm to undertake the work in a particular order.

7.6. I would also refer here to the firm's advice on XX August. This explained that the reason why Mrs A would not incur any stamp duty liability, on the transfer of equity, was because she was gifting the equity of the property. This advice makes no reference to the order in which the transfers were registered, nor does it refer to tax arising because Mrs A's eldest daughter was a first time buyer.

7.7. It was only on XX September that Mrs A asked the firm whether her eldest daughter would still be classed as a first-time buyer in respect of the transfer of equity if the transfer of the share of the M properties had already taken place. I cannot see that the firm ever responded to this query. I also have seen no evidence that the eldest daughter's status as a first-time buyer was ever discussed or advised on in relation to tax liability or at all.

7.8. In the absence of any evidence that the firm advised that the transfer of equity should take place before the application for first registration and transfer of the M properties, my decision is that the advice was not given.

7.9. As my decision is that the advice was not given, my conclusion is that the firm did not fail to register the properties in the order they originally advised would be best. As a result, my conclusion is that the firm's service was reasonable.

7.10. Mrs A has commented that she made this complaint because at a meeting with the firm in July XXXX the fee earner described Mrs A's daughter as a first time buyer. She says as a result she believed the first time buyer status was relevant but now believes this was not the case. I have seen no evidence of this. In any event, this does not change my decision on the firm's service.

8. The firm has failed to adequately address Mrs A's further complaint of 1 May 2021 in writing as well as further subsequent follow ups.

8.1. In his Case Decision of 6 March 2023 my colleague concluded that the firm's service was reasonable because they did provide written responses to the additional issues Mrs A raised. My colleague noted that at this time the firm prioritised trying to find a way to resolve Mrs A's concerns in XXXX.

8.2. The firm has not provided any comments in response to this complaint. Mrs A did not provide any comments in response to this complaint, to the Case Decision and my Second Provisional. However, she did provide comments in response to my Provisional Decision which I have dealt with below.

8.3. I would like to start by explaining what was happening in May XXXX. The firm were at this time no longer instructed by Mrs A. She had on 1 November 2020 referred her complaint to the Legal Ombudsman. She agreed to suspend her complaint with the Legal Ombudsman in April 2021 so she could try and resolve matters directly with the firm.

8.4. On XXXX the firm sent Mrs A confirmation of completion of the registration of the M properties. This included confirmation that the M properties had been transferred into the names of Mrs A and her three daughters.

8.5. In an email on XX April Mrs A told the firm she had agreed to suspend her complaint with the Legal Ombudsman and asked the firm to address the points in her email to them of XX January. The firm responded on XX April.

8.6. It was then on XX May XXXX that Mrs A made a further complaint to the firm.

8.7. Turning then to Mrs A's complaint accepted for investigation. The first part of the complaint is that the firm failed to adequately address Mrs A's complaint of X May XXXX in writing. I have seen no evidence the firm responded to Mrs A's complaint of XX May XXXX in writing.

8.8. However, this does not automatically make the firm's service unreasonable. I say this because after she chased for a response on XX June XXXX a meeting was arranged on XX July. This meeting took place. I consider, in the circumstances, it was reasonable for the firm to arrange to meet with Mrs A to discuss her complaint rather than respond in writing. A number of complex issues needed to be discussed, and a way forward agreed.

8.9. There is no evidence that Mrs A asked the firm only to respond to her in writing. Mrs A was also happy to meet with the firm to discuss matters.

8.10. I understand why Mrs A would have preferred her complaint to be responded to in writing. However, in the circumstances, I consider it was reasonable for the firm to meet with her to discuss her complaint rather than respond to it in writing.

8.11. I will now address the second part of Mrs A's complaint that the firm failed to adequately address further follow ups in writing. This, I understand, refers to emails she sent the firm on XX July, XX August, XX September, XX November and XX December.

8.12. I understand from her complaint that Mrs A is not saying the firm did not respond to these communications, but that the firm did not adequately address what she had said.

8.13. On XX July the firm responded to her email to say they would not respond to Mrs A's questions until she agreed the contents of the notes of the meeting. The firm also responded to the email of XX August on XX August. In this email the firm proposed that she contact the Legal Ombudsman to suspend her complaint whilst they try and resolve matters.

8.14. I appreciate why Mrs A may have found these responses frustrating as they did not respond to the points she made but I don't consider them to be unreasonable responses in the circumstances. The firm wished to ensure that matters were clear between them and Mrs A on the next steps before they responded.

8.15. Whilst I have not seen the email Mrs A sent the firm on XX September I have seen the firm's response on XX October. It was in this email that the firm said they may be reaching an impasse as they were waiting to hear what she wanted to do.

8.16. Again, whilst I appreciate the frustration Mrs A felt at this time when the firm failed to respond to the questions she raised, I do not consider this an unreasonable response in the circumstances. The firm were trying to resolve matters and clearly felt that it was not going to be possible until Mrs A had agreed the next steps.

8.17. Mrs A set out all her outstanding questions to the firm on XX November and chased for a response to this on XX December. It was on XX December that the firm responded to say that they were no longer able to continue to act on the matter.

8.18. Whilst I understand that Mrs A sought answers to the many questions she had between May and December XXXX the firm's focus during this time was on resolving the issues that had arisen, rather than answering all her questions. I do not criticise the firm for this. The firm were trying to work with Mrs A to resolve the issues that had arisen. They could not do so without agreement from Mrs A as to steps to be taken which I don't consider she provided.

8.19. I wish to be clear that I am not criticising Mrs A, but I am seeking to explain why, in the circumstances, I consider the firm's responses were reasonable.

8.20. My decision is therefore that in the circumstances the firm's service was reasonable. This is because it was reasonable for them to meet with Mrs A to discuss her complaint of XX May XXXX and not respond to it in writing. Further, their responses to Mrs A's communications between XX May and December XXXX were reasonable in the circumstances as they were trying to resolve her complaint.

8.21. Mrs A has commented in response to my Provisional Decision that what she was requesting from the firm was a reply that she could confidently move forward with. Mrs A has said that the firm made several suggestions of ways forward, but she found it difficult to follow the explanations and suggestions at the time. She thinks it was reasonable to expect the firm to respond in writing and felt it was impossible to achieve a resolution without written agreement between her and the firm.

8.22. She says given the complexities of the situation, as well as the actions of the firm and concerns raised by documents she received in the data access request. She feels that she was justified in wanting a written explanation before she proceeded any further.

8.23. I understand Mrs A's desire to confirm things with the firm in writing given the issues that had arisen during the time she instructed the firm. I recognise that Mrs A was confused as to what steps would or should be taken and what action

to take to resolve the situation in which she found herself. However, I must balance that with the firm's desire to agree things with Mrs A before they proceeded.

8.24. I must, in considering this complaint, determine whether or not the firm's service in the circumstances was reasonable. I am not looking for perfect service. Ideally, I agree with Mrs A she would have had confirmation in writing of the steps to be taken by the firm before they were taken, and this would have enabled her to make an informed decision. However, I consider that would have been perfect service which is not what I am looking for.

8.25. At this time the firm were no longer instructed. A service complaint had been raised with the Legal Ombudsman, and it had been suspended to give the parties time to try and resolve the complaint. The firm's intention during this time was to try and resolve the situation. Relations had clearly already broken down between Mrs A and the firm. This clearly did not help communication during this period.

8.26. The firm did arrange a meeting with Mrs A to respond to her further complaint of XX May XXXX and to explain the position. They did not ignore it. Mrs A also accepts that she did not say she had to receive a response in writing.

8.27. Whilst I understand Mrs A's frustration that the firm were not in her view adequately addressing the points she raised the firm did respond to her subsequent correspondence. I accept that the firm rather than answering her questions were seeking to resolve the issues that had arisen, but I consider that to be reasonable in the circumstances. At this time the parties were trying to resolve the complaint and find a way that they could agree to move forward to resolve the dispute that had arisen between them. Unfortunately, they were unable to do so.

8.28. In conclusion, my decision is that, in the circumstances, the firm's service was reasonable. This is because I am satisfied they did, in the circumstances, reasonably address Mrs A's further complaint of XX May XXXX and subsequent follow ups.

9. Summary and Remedy

Summary of Findings of Unreasonable Service

9.1. As I have explained above I have found the firm's service to be unreasonable in relation to complaints one, two, three, four and six and reasonable in relation to complaints five, seven and eight.

9.2. In brief, the unreasonable service I have found is that the firm: delayed in responding to the Land Registry requisitions in XXXX; delayed in dealing with the matter as they did no work on the matter from January to September XXXX; failed to provide an update after January XXXX until requested by Mrs A; and throughout May, June, July and August they failed to respond to requests from Mrs A for an update and for information.

9.3. I have also found the firm's service to be unreasonable when they did not follow Mrs A's instructions on XX September XXXX not to do any further work until they had contacted her. In addition, I found the firm's service to be unreasonable because their advice that Mrs A would not have to pay CGT liability or SDLT was wrong.

9.4. Finally, I found the firm's service to be unreasonable because they failed to complete the first registration application correctly with the Land Registry in XXXX. As well as in XXXX when they failed to obtain Mrs A's approval of the plan before submitting the application.

Remedy

9.5. In my Second Provisional I directed that the firm waive all their fees in relation to the transfer of equity (£420 including VAT) and pay Mrs A £14,376.51 made up of: 50% of the costs, fees and disbursements incurred in dealing with the transfer of equity £12,359.51 including VAT, Stamp Duty interest and penalties £1,017 and compensation of £1,000.

9.6. Mrs A has provided comments relating to the remedy. She has said that this remedy marks a substantial departure from my Provisional Decision of XX November XXXX. The remedy, she says, is more than 50% lower that the remedy directed in my Provisional Decision of £31,251.51 and I have not directed the firm to pay of her legal costs. She is correct in what she has said. I will explain below why I have directed the remedy I have and why my view remains that the remedy should be as I directed in my Second Provisional Decision.

9.7. I think it would assist at this point if I explained that in response to my Provisional Decision both parties provided comments regarding the remedy. In brief, at that stage, Mrs A's position was that the remedy should be higher and the firm believed the remedy was too high.

9.8. Mrs A has commented that, despite her request, the firm have not agreed to disclose their comments in response to my Provisional Decision. I wish to clarify that our process is not to disclose any parties comments to the other

party without their permission. I do not consider this to be unfair as any relevant comments are dealt with in my decision.

9.9. Before I set out my decision on remedy, I wish to say that we are an evidence based organisation. My decision not only on service but also on remedy must be based on evidence. Also, I can only direct a remedy for the detriment or loss that flows from the unreasonable service I have found.

9.10. I understand that Mrs A feels very strongly that none of the costs she has incurred to resolve the issues and those in pursuing this complaint would have arisen had the firm acted reasonably. This is why she believes the firm should pay all her losses and costs. However, I have not found all the firm's service to be unreasonable. As a result, I am not directing that the firm pay all the losses and costs Mrs A has incurred.

The firm's incorrect advice regarding liability for SDLT and CGT

9.11. I am satisfied that had the firm's advice been reasonable Mrs A would have been aware of the potential tax she would have to pay for the transfer of equity for the L Property owned in her sole name.

9.12. At the very least, the firm would have advised Mrs A they could not advise her, warned her that there may be a potential liability and told her to seek independent advice. This is what I would have reasonably expected the firm to do. Had the firm done this Mrs A would have had the opportunity to seek expert advice if she chose to do so to be in a fully informed position.

9.13. I must ask myself what Mrs A would have done if the firm's advice had been reasonable.

9.14. It is Mrs A's position that if the firm's advice had been reasonable she would not have instructed the firm to complete the transfer. As a result of that she maintains that none of the costs related to the transfer would have been incurred.

9.15. It is the firm's position that Mrs A went to the firm with a clear intention to provide significant financial support to her daughter and the strong desire to transfer the L property into joint ownership with her daughter to achieve this. The firm say that even if Mrs A had not transferred the equity in the L property she would have pursued her goal, to provide a sum of around £50,000 to one of her daughters, by other means, which they say would have incurred some tax liability and costs.

9.16. The firm do not accept it is reasonable to say that Mrs A would have simply given up on her desire to provide financial support to one of her daughters. They say, as a result, Mrs A would have always incurred some tax or other liability. They have pointed to the fact that a court would consider the alternative options Mrs A would have pursued and accounted for the inevitability that some tax liability would always be incurred in calculating what remedy should be payable.

9.17. In circumstances where an exact course of action and its effects can't be known, the firm say, a court would apply the doctrine of loss of chance, which looks at the chance of a complainant achieving a better outcome and apply deductions accordingly.

9.18. Mrs A has commented in response to this that the principle of betterment and/or loss of chance do not apply in these circumstances.

9.19. In terms of betterment, she says this is not a situation in which she would be placed in a better position than she would have been had the advice she received not been unreasonable. The firm, she says, has provided no details of the other options she would have pursued or what other liability she would have incurred.

9.20. In terms of loss of chance Mrs A says this is not a principle which falls to be considered and all that she is required to show is that if she were properly advised of the tax implications she would not have proceeded with the transfer of equity. Mrs A says it is an all or nothing scenario. It is not necessary to consider what else she might have done.

9.21. In any event, she has said that she has expressly said she would not have continued with the transfer of equity if she were made aware of the CGT or SDLT liabilities. This together with the fact that she was not cash rich, makes it in her view, wholly contradictory based on the available evidence for the firm to maintain that she would have willingly incurred a liability she had no means to satisfy.

9.22. She also adds that it would be entirely illogical to make a gift to one of her daughters of £50,000 to incur a personal liability of around £20,000 which would cause her acute financial difficulty.

9.23. Firstly, I do not agree with Mrs A that the principles of betterment and/or loss of chance do not apply to this case. I say this because I must always have in mind when directing a remedy whether or not I am placing a complainant in a better position than they would have been but for the firm's unreasonable service.

This by its nature means that I must consider both these points and in particular what she may have done had the firm's service been reasonable.

9.24. In addition to this Scheme Rule 5.37 says that in determining what is fair and reasonable, I may take into account, but I am not bound by, what decision a court might make. The court may consider these principles. Therefore, this is something that I may also take into account when making my decision.

9.25. The issue here then is what Mrs A would have done had the firm's advice been reasonable. This is by its nature a speculative conclusion as we cannot know exactly what Mrs A would have done. In reaching this conclusion I must take into account the evidence that we have. As well as explained above what decision a court might make.

9.26. The issue here is that there is very little, perhaps no evidence, that indicates what Mrs A would have done. Mrs A has made statements of what she would have done after the event but there is little, if no evidence, at the time the instructions were given to support what she says.

9.27. When Mrs A instructed the firm in or around July XXXX there is absolutely no evidence that any other option other than the transfer of equity was discussed. If I accept Mrs A's position that she would not have proceeded had there been a tax liability I would have expected that this would have been discussed. I therefore would expect to see evidence of this and there is none.

9.28. Particularly, given the fact that Mrs A discussed with the firm the possibility or idea of a deed of variation in or around November XXXX. The evidence I have shows me that Mrs A instructed the firm to transfer the equity of the L property in July XXXX. In fact, I note that it was not until after the instructions were given to the firm and accepted by them that Mrs A raised the question of the tax liability.

9.29. In terms of what Mrs A would have done, in her comments Mrs A has said if she gifted her daughter £50,000 cash and survived seven years (which is almost the time that has passed since the transfer) no CGT or SDLT liability would have been paid.

9.30. I do not accept that this is something Mrs A would have done. She made clear in her email of XX September to the firm she was not cash rich. She was asset rich. The point she was making at that time as I understand it was that the settlement of her father's estate had presented her with the opportunity to treat all three daughters equally.

9.31. In the alternative Mrs A says if a deed of variation of her father's will was agreed and entered into, to grant one daughter a greater share in the M properties, no CGT or SDLT liability would have been payable.

9.32. Finally, Mrs A has said that if the firm are correct (which she maintains they are not) that making a gift would always attract a payment of tax she would simply not have made the gift or varied her own will. Her position is she was not compelled or obligated to make a gift to her daughter and would not have done so at any cost.

9.33. Mrs A provided evidence of advice given by the firm (from a different fee earner) following her father's death on XX October XXXX. This shows me that the possibility of entering into a deed of variation was discussed at that time. Also, that Mrs A was aware of the need to do this within two years of her father's death.

9.34. Unfortunately, Mrs A says a number of issues arose which meant she could not deal with matters at that time. This included her husband being taken seriously ill abroad, one of her daughter's ill health and pregnancy and one of her daughters getting married abroad. When she returned to the firm she was then introduced to the different fee earner who advised on the transfer of equity.

9.35. She says that this advice superseded the earlier suggestion of the deed of variation which is why she followed it and did not raise the matter of the deed of variation.

9.36. I have considered very carefully all the comments provided on the remedy. Including, those in relation to the firm's assertion that the remedy I directed in my Provisional Decision constituted betterment. I have also considered the alternative options open to Mrs A if she did not proceed with the transfer of equity.

9.37. To deal firstly with those alternative options. As I have already said I do not consider that Mrs A would have paid her daughter cash. In terms of whether she would have entered into a deed of variation Mrs A was clearly aware of this and had it in her mind when she instructed the firm in or around July 2019 because of the two year time limit she had been made aware of.

9.38. I would have therefore expected Mrs A to raise this with the firm. Particularly, given her belief that there would be no tax payable if this approach were taken. However, even if the firm had been instructed to do this, it was reliant on everyone agreeing to alter the terms of the will and all the criteria being met to ensure there would have been no tax liability.

9.39. I have checked the position in relation to deeds of variation and whether or not they would lead to a tax liability. For the purposes of IHT and some CGT purposes a variation will be treated as if it was made by the deceased if certain conditions are met. These include that it must be made within two years of the death of the deceased, be in writing and is made by each person who is giving up an entitlement and contains a statement that the parties intend the relevant legislation to apply.

9.40. For the purposes of SDLT a variation would be exempt if there was no chargeable consideration and the variation was made within two years of death and there is no consideration other than the variation.

9.41. Whilst I can agree that these conditions could have been met there is no guarantee they would have been, or as I have said above, that everyone would have agreed to enter into the deed of variation. There are therefore too many variables for me to say with any certainty that had Mrs A decided to proceed with a deed of variation instead of the transfer no tax liability would have arisen.

9.42. Ultimately, however, there is no evidence that Mrs A raised this with the firm as an option. There is absolutely no evidence she pointed to the previous advice from the firm or raised this with the new fee earner. Which is what I would have expected her to do.

9.43. Now I must deal with the point that Mrs A makes that she would not have proceeded with any route that would have resulted in any tax liability.

9.44. The issue I have with this contention is that there is again no evidence to support this. There is no evidence that Mrs A told the firm she would not proceed with any route that involved a tax liability. In fact, I note that had a deed of variation been entered into this would only have been exempt if it met the criteria. There was always a risk therefore, that a tax liability would have arisen had this route been taken.

9.45. The evidence I have seen shows me that Mrs A was aware the transfer of equity could potentially lead to a tax liability. This is because in her email to the firm on XX August XXXX she specifically asked what charges she may have to pay (stamp duty and capital gains tax) in relation to it. Most importantly this email does not say that she will not pursue this route if a liability arose.

9.46. I note this email was sent after the client care letter was sent by the firm which confirmed Mrs A's instructions were to transfer the equity in the L property. This shows me that she did not raise the question of the tax liability until after she had instructed the firm to transfer the equity of the L property into her and her daughter's joint name.

9.47. In light of this I consider that this is not evidence that the tax liability was a determinative factor in making the decision to transfer the equity. If it had been I would have expected to see the question asked before the firm were formally instructed. I would also have expected to see evidence of other options being discussed before a decision was made how to proceed.

9.48. The evidence I have seen shows Mrs A clearly instructing the firm she wanted to equalise matters between her daughters and instructing the firm to take action to do this by transferring the equity of L property into the joint names of Mrs A and her daughter.

9.49. Therefore, on the balance of probabilities based on the evidence I have seen I am satisfied that it is more likely than not that Mrs A would have taken steps to equalise matters between her daughters. As she was asset rich and cash poor this would have been by way of an asset transfer.

9.50. In those circumstances, I cannot say with any certainty this would have been without a tax liability. I also cannot say with any certainty that this would not have resulted in professional fees including solicitor and accountant fees.

9.51. I wish to be very clear at this stage my decision is that the firm's advice that the transfer of equity would not lead to any tax liability was unreasonable. The issue here is what loss flows from this. The issue as I have set out is that I am not persuaded on the evidence I have seen (which is limited) that Mrs A would have done nothing in the circumstances if she had been told a tax liability would arise.

9.52. This is because I take the view Mrs A would have done something else. I am also not persuaded that I can say with certainty that an alternative route would not have incurred some tax liability and costs.

9.53. I have considered carefully what remedy to direct. I cannot say with certainty, on the basis of the evidence I have seen, what costs or tax liability, if any, would have been incurred. I am therefore satisfied that it is more likely than not that some costs or tax liability would have been incurred. To be fair and reasonable to both parties given that I consider that it is more likely than not that Mrs A would have done something which would potentially have incurred some costs and liability I am directing that the firm pay 50% of all the legal costs, fees and liabilities that Mrs A has incurred in the transfer of equity.

9.54. I am directing 50% because I cannot direct exactly what the loss would have been as we do not know what would have happened. I consider 50% to be fair and reasonable in the circumstances. It is a substantial amount of the losses

Mrs A has suffered and reflects the fact I have no evidence of what losses she would have suffered by pursuing another route.

9.55. Were I to direct that the firm pay all the legal costs, fees and liabilities I am of the view that I would be putting Mrs A in a better position than she would have been but for the firm's unreasonable service. This is because, as explained above, I am satisfied that Mrs A would have taken steps to equalise matters between her daughter through some form of asset transfer. It is more likely than not that this would have incurred some costs and tax liability.

9.56. To be clear I am directing that 50% of the following costs which total £24,219.01 be paid. This means that I am directing that the firm pay Mrs A £12,359.51 including VAT;

£4,795.00	Stamp Duty Land Tax excluding interest and penalties
£14,064.08	Capital Gains Tax Liability
£2,937.93	All legal fees and disbursements relating to the transfer of equity including VAT
£2,232.00	Accountants costs including VAT
£540.00	Surveyors Costs including VAT
£150.00	Mortgage Company Fee

9.57. I understand that Mrs A has not paid the firm their costs for the work done on the transfer of equity. I have not seen that the firm has invoiced for this work. I have seen the firm's letter of XX July XXXX in which they quote £350 plus VAT (£420 including VAT) for this work to be done.

9.58. In recognition of the fact that the firm's advice that the transfer of equity would not incur any tax liability and because the firm delayed in dealing with matters, failed to provide updates or respond to requests for information and did not follow instructions not to do any further work the firm should waive this fee and not charge Mrs A for any work done in relation to the transfer of equity.

9.59. I would also add that I have seen no evidence that Mrs A paid the firm any monies in relation to the transfer of equity. In particular, I have seen no evidence Mrs A paid the firm the Land Registry fee for the application to register the transfer of equity. This is stated to be confirmed in the firm's letter of 19 July 2019. This is why I have not directed that the firm pay this to Mrs A.

Registration of the M properties

9.60. I now wish to address the detriment of the firm's failure to complete the first registration application correctly in XXXX and XXXX. It is Mrs A's view that had the application for first registration been made correctly in XXXX then the

boundary dispute would not have arisen. She says this because her view is that if she had approved the plan it would have shown correctly the land she owns.

9.61. In any event, she also says that the firm's failure to agree the plan with her, before submitting the application in XXXX, meant that the boundary was recorded incorrectly based on the neighbour's plan.

9.62. I am afraid I cannot agree with Mrs A on this point. These are old properties. It is very clear to me that even between the two properties Mrs A and her daughters owned the boundaries are far from straightforward. On the balance of probabilities therefore I think it more likely than not that even if the application had been completed correctly in XXXX a boundary dispute would have arisen.

9.63. To be able to direct that the firm pay the costs Mrs A has incurred in resolving the boundary dispute I would have to be certain that the costs she has incurred flowed from the firm's poor service. As I believe it is more likely than not that a boundary dispute would have arisen anyway, I am not in a position to say this.

9.64. In reaching this conclusion I have also taken into account the fact that plans registered with the Land Registry do not cover every centimetre on the ground and are far more general than this. Given the complexities between the properties, I think it is more likely than not that an issue would always have arisen with the boundaries between the properties.

9.65. As a result, I am not directing the firm to pay as a remedy any of the losses Mrs A has suffered in seeking legal advice in relation to the boundary dispute. This includes the costs of any experts instructed in this matter, including surveyors.

9.66. For the avoidance of doubt as I have not found the firm's service unreasonable in relation to their advice to register the M properties as one property, I am therefore not directing the firm pay any costs Mrs A or her daughters have incurred or may incur as a result of splitting the properties.

9.67. However, I do appreciate that Mrs A has been left with the lingering doubt that the firm's unreasonable service has left her in the position where she has a boundary dispute. I understand why she has formed that view. I therefore wish to recognise that in the compensation payment I am directing.

9.68. In relation to complaint three Mrs A's legal representative have commented that the firm's failure to follow her instructions to contact her and explain matters before continuing with the outstanding work means that the firm's actions, in particular the application for first registration of the M properties, were taken without express (or implied) consent.

9.69. They say as a result the firm acted without authority and, in doing so, their submission of the application for first registration was an intervening act. This they say rendered any previous consent by Mrs A irrelevant and attributed to the firm liability for correcting any error in the application for first registration.

9.70. They say this was a missed opportunity for the firm to mitigate the losses arising from the unreasonable advice of the firm to register the properties as one. The application should either have been fully considered by the firm to confirm Mrs A's instructions or she should have been advised to seek independent legal advice.

9.71. Neither happened and therefore Mrs A's legal representatives say it would be unfair to leave the burden of those actions solely on Mrs A's shoulders. That is the financial burden of seeking and obtaining advice regarding the extent of the registration, the effect on her and her daughter's property interests and the resulting boundary issues.

9.72. They say that in those circumstances it would be unfair for the firm to avoid liability to Mrs A for costs she has had to incur in relation to this element of her complaint.

9.73. As I have explained above in order to award Mrs A the costs she has incurred in resolving the boundary issues in relation to the M properties I would have to be certain that the costs she has incurred flow from the firm's unreasonable service.

9.74. I understand Mrs A's legal representative's argument to be that had the firm's service been reasonable i.e. had they sought her approval of the plans submitted in XXXX issues with the boundaries of the M properties would not have arisen. I am afraid I cannot agree with that.

9.75. There was already an issue in relation to the boundary when the application was first made in XXXX. This was a result of the application for first registration made by the neighbours. This I understand is what the requisitions of the Land Registry in XXXX related to.

9.76. Mrs A has commented that it is her understanding that her application for registration was submitted prior to her neighbours. That priority, she believes was lost when the firm failed to reply to the requisitions and the application was cancelled.

9.77. Whoever had priority at the time the requisitions were raised there was an issue. In my opinion this supports my view that on the balance of probabilities it

is more likely than not that even if the application had been completed correctly in XXXX there would have been a boundary dispute.

9.78. Therefore, I remain of the view that a boundary dispute or issue would always have arisen even if the firm's service had been reasonable in XXXX as this issue arose before then.

9.79. As a result, my decision remains that the financial losses that Mrs A has suffered as a result of resolving the issues regarding the boundary of the M properties do not flow directly from the firm's unreasonable service. Therefore, I am not directing the financial losses as a remedy.

9.80. I have however recognised within the compensation payment I am directing the lingering doubt Mrs A has been left with that the firm's unreasonable service has left her in a position where she has a boundary dispute.

Legal Complaint Costs

9.81. I now wish to turn to Mrs A's request that the firm pay the legal costs she has incurred in bringing this complaint to the Legal Ombudsman. The Legal Ombudsman is a free service for complainants. It has been set up to ensure that individuals have a way to bring their complaints with a minimal of formality.

9.82. Our Scheme Rules do say that we can direct a service provider to pay costs the complaint incurred in pursuing the complaint. But they make clear that this is likely to be rare. Therefore, to direct this as a remedy I would have to, amongst other factors, be satisfied that Mrs A's situation was so unusual and complex as to mean she had to have legal help with it. I am not persuaded that this is the case here.

9.83. Whilst this was a complex matter Mrs A was able to bring her complaint to the Legal Ombudsman herself. It was not until after my colleague's Case Decision that she instructed new solicitors.

9.84. I do not criticise Mrs A for instructing new solicitors. In fact, I consider that was necessary for her to resolve the legal matters. However, I take the view that she could have communicated with the Legal Ombudsman herself about her complaint.

9.85. I also have to be fair and reasonable to all parties in making my decision. I do not therefore consider it would be fair to the firm to direct that they pay costs Mrs A has incurred in her new solicitors dealing with her complaint and communicating with the Legal Ombudsman.

9.86. Mrs A has commented that my position here is contradictory in that I on one hand say Mrs A's matter was complex and on the other say she could have communicated with the Legal Ombudsman herself about her complaint. I wish to be clear here that I have differentiated here between the substantive legal matters and Mrs A's complaints.

9.87. Mrs A found herself in a situation where various legal matters needed to be resolved. After her relationship with the firm ended I consider that she did need assistance to resolve those matters. However, this is different from her complaint which she asked the Legal Ombudsman to investigate. I remain of the view that she did not need assistance to bring her complaint to the Legal Ombudsman. In fact, she herself communicated with the Legal Ombudsman for a long time, demonstrating that she did not need assistance with her complaint.

9.88. However, having considered carefully the narrative of the invoices of Mrs A's new solicitors I do recognise that some of the work charged for by the firm was not related to her complaint. It was related to resolving issues and communicating with parties about matters relating to the liabilities which arose as a result of the transfer of equity of the buy to let property.

9.89. In my Provisional Decision I directed that the firm pay 25% of the new solicitor's costs. Those were costs that in my view arose specifically as a result of work done by the new solicitors in relation to issues arising from the transfer of equity of the L property.

9.90. As I have explained above my decision has changed on the remedy that flows from the firm's unreasonable service relating to advice given on the tax liability of the transfer of equity given the new evidence I have seen. This means that I am not directing that the firm pay any of the costs that the new solicitors have incurred. This is because I am of the view that Mrs A would always have had to seek professional advice when she took steps to equalise matters between her daughters.

9.91. In response to my Provisional Decision it is Mrs A's legal representative's assertion that Mrs A did need assistance in order to pursue her complaint. It is Mrs A's position that this was a complicated complaint as a result of the firm's failure to identify the issues at the time advice was given. This was compounded by its failure to properly consider the effect of what had been done. In the circumstances she argues that legal advice was not an option but necessary.

9.92. They say Mrs A required assistance not only with regards to reviewing and advising on the firm's advice and conduct but with advising and assisting with

efforts to mitigate the losses arising and in advancing her case. They therefore say she required assistance to properly pursue her complaint.

9.93. They ask that I reconsider this element of my remedy and direct that the firm pay a greater proportion of Mrs A's costs on the basis that she has been compelled to incur them solely as a result of its unreasonable advice. It is her position that the entirety of the costs incurred are reasonable and proportionate.

9.94. They have said that where these costs assessed in court proceedings following a similar finding by a Judge to that which I have made they would expect the court to assess that the vast majority of these costs would be recoverable from the firm on the standard basis.

9.95. I wish to address the point made about what a court would do first. Whilst I must bear in mind when making my decision what decision a court might make I also must have in my mind that we are an alternative to the courts. Mrs A has commented that whilst we are not bound by the court's process we should have due regard to it. She says that in circumstances such as these costs follow the event. She believes she would be entitled to recover her incurred costs.

9.96. As I have already explained awarding the costs of pursuing a complaint are rare. It was open to Mrs A to pursue this matter through the courts if that was the remedy she was seeking. She chose not to do so and we have investigated her complaint. As Mrs A has pointed out she could still choose to reject my Final Decision and pursue matters through the courts if she wishes to do so.

9.97. However, whilst bearing in mind the decision a court might make I must consider when making my decision what is fair and reasonable for all parties to the complaint. I remain of the view that whilst I agree Mrs A needed to instruct new solicitors to untangle and resolve her legal matters she could have communicated with us herself regarding her complaint. She had done so without issue for some time before seeking legal assistance.

9.98. I am very mindful that we are a free service with minimal formality. This allows complainants to come to us directly without the assistance of legal advice. I have also considered Mrs A's complaints about the firm's service. I am not persuaded that the complaints were so complicated as to require Mrs A to have a firm represent her in bringing her complaint to us.

9.99. I believe this is demonstrated by the fact that Mrs A initially brought the complaint to us and pursued it herself for a long time. Therefore, my decision remains that the costs of dealing with the complaint and communicating with us should not be directed as a remedy.

Interest

9.100. Mrs A's legal representatives have said that our Scheme Rules provide that interest can be awarded when a direction is made for a sum of money to be paid.

9.101. They say this should be paid because Mrs A for the most part has had to borrow funds from commercial and other lenders in order to be able to fund the necessary remediation/mitigation. They say this has caused her to incur interest charges on those sums from the dates they were borrowed at a rate greatly exceeding the statutory rate.

9.102. Whilst our Scheme Rule 5.38 c) does provide that interest can be paid I wish to be clear that this is on compensation for financial loss. It is also rare for this to be done. I sympathise with Mrs A that she has had to borrow to fund matters and appreciate that this may have caused her great financial difficulty.

9.103. However, I take the view that it is not fair and reasonable in the circumstances to penalise the firm further by directing that interest is payable on the financial losses I have directed. I am therefore not directing that any interest should be payable.

9.104. I wish to add that because I have found the firm delayed in dealing with the Land Registry's requisitions causing the application to transfer the equity made by the firm to be cancelled. I am directing that the firm pay all the interest and penalties that have arisen on the SDLT and CGT.

9.105. This is because I am satisfied that had the firm's service been reasonable, had they not delayed in dealing with the requisitions, the matters of tax would have arisen and could have been resolved at the time of the transfer. This would have avoided the need to pay any interest or late payment fees.

9.106. However, the CGT liability does not particularise the penalties and interest payable because an agreement was reached as to what Mrs A should pay. I am therefore not in a position to direct a payment in relation to this as there is no evidence of what the interest and penalties were.

9.107. However, in relation to the SDLT the letter dated XX February XXXX sets out that interest of £817 and penalty of £200 is payable. I am therefore directing that the firm pay this. This is a total of £1,017.

Compensation

9.108. Turning then to compensation, it is clear to me that Mrs A suffered a great deal of stress and anxiety throughout January to September XXXX when she was trying to find out what was going on with her matters. Whilst I do accept that this was during an unprecedented pandemic there was, as I have explained above, more the firm could have done during this period to provide a reasonable service.

9.109. I also accept that it would have been very upsetting to Mrs A when the firm sent the Land Registry the application in XXXX when she had specifically told the firm to do no further work. This was exacerbated by the fact that the firm did not obtain her approval to the plan before submitting the application.

9.110. In the award for compensation I also wish to reflect the fact that the distress Mrs A has suffered has been ongoing for some time. Also, that she continues to struggle with the stress of this issue. I understand from her new solicitors that matters in relation to the tax implications of the transfer of equity have only recently been resolved. This is some five years after she instructed the firm, in XXXX, to do the work.

9.111. This is a considerable period of time during which Mrs A has had to pursue her complaint and deal with resolving matters. I recognise that throughout that period Mrs A has spent a lot of time trying to resolve these issues. This will I have no doubt have been very stressful and upsetting for her.

9.112. As a result, I consider an exceptional award of compensation of £1,000 should be paid to Mrs A for the distress and inconvenience she has suffered as a result of the firm's unreasonable service.

Conclusion on remedy

9.113. In conclusion, as explained above, I am directing that the firm waive all their fees in relation to the transfer of equity (£420 including VAT) and pay Mrs A £14,376.51 made up of:

- 50% of the costs, fees and disbursements incurred in dealing with the transfer of equity £12,359.51 including VAT;
- Stamp Duty interest and penalties £1,017; and
- Compensation £1,000.00

Therefore, my final decision is that there has been unreasonable service that requires a remedy and direct that the firm pay Mrs A £14,376.51 and waive their fees in relation to the transfer of equity of £420 including VAT.