



Consumer guidance on  
**Scheme Rules changes**

**April 2023**



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## Our Scheme Rules are changing

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On 1 April 2023, we are changing some of our Scheme Rules which are the rules which set out how we carry out investigations and makes decisions about complaints.

The key changes will affect how and when you are able to bring a complaint to us about your lawyer, and will also affect how we investigate your complaint.

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## Our time limits are changing

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Our current time limits say that you must bring your complaint to us within six years of the problem you are complaining about happening, or if the problem took place more than six years ago, you must bring your complaint to us within three years of you having become aware of the problem. In addition to this, you must refer your complaint to us no more than six months after you receive a response to your complaint by your lawyer.

From 1 April 2023, this is changing. From that date, you must refer your complaint to us within

- **one year** from the date of the problem you are complaining about occurring; *or*
- **one year** from the date when you first realised that there was a problem.

The requirement to refer your complaint to us no more than six months after you receive the final response to your complaint from your lawyer is not changing.

These new rules are not being applied retrospectively to cases that are brought to the Legal Ombudsman before 1 April 2023.

Should you refer a complaint to us which falls out of our new time limits?

We have discretion under the new Scheme Rules to accept cases that are outside our time limits if we believe that it is fair and reasonable to do so.

It is important to say that we cannot list all the circumstances where it would be fair and reasonable to accept an out of time complaint, as that will depend upon the individual circumstances of each case. However, we are likely to investigate out of time complaints in circumstances where;

- Illness or injury have prevented you from bringing your complaint to us within our time limits, or you have gone through other personal issues that have prevented you from bringing your complaint to us, for example a bereavement or caring responsibility;

- Your lawyer has given incorrect or no information regarding our time limits that you have relied on;
- You are a vulnerable customer or require reasonable adjustments which make it fair to investigate the complaint;
- Your lawyer has delayed matters in relation to your complaint handling which means that, by the time you refer your complaint to us, the matter is outside our time limits;
- The problem complained about has occurred over an extended period, providing a proportion of that time falls within our time limits. For example, if you instructed a lawyer to represent you three years ago and they have delayed matters over the entire period that they represented you, providing that the matter did not end more than a year ago we will investigate the issue of delay over the entire period.

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## Our investigation process is also changing

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We are changing two aspects of our investigation process, firstly setting out new reasons why we may choose to dismiss a complaint that we have accepted for investigation, and secondly we are changing our rule around when we issue a formal ombudsman's decision on a complaint.

### *When we may dismiss a complaint that we are investigating*

Currently our scheme rules list a number of circumstances under which we may decide to dismiss a complaint that we are investigating. For example, we may choose to dismiss a complaint where the lawyer has made what we consider to be a reasonable offer to resolve the matter which remains open for acceptance, or if the matter is better considered by a court.

From 1 April 2023, we are changing some existing rules and adding some new ones.

We are changing our Rule 5.7(b) so we can dismiss a complaint if "*the complainant has not suffered (and is unlikely to suffer) significant financial loss, distress, inconvenience or detriment*".

Whilst all complaints are important to us, we are doing this so we can focus our efforts on complaints that have had a significant impact on the customer or that show a concerning pattern of behaviour.

An example of where we might apply this rule includes a case brought to us in which we were asked to investigate a complaint which stated the instructed firm of solicitors had failed to empty a litter bin in the meeting room in which they had held their client meeting. The complainant found this 'disrespectful' and wanted compensation for it. The level of impact here on the customer was so minor that it would not be an appropriate use of our time and resource to investigate.

Rule 5.7 (p) is a new rule which allows us to dismiss a complaint where "*it would not be a proportionate use of the ombudsman's time to investigate the complaint, due to the likely impact or due to its complexity, the amount of evidence provided, or due to the conduct of the complainant during the investigation*".

We will only consider using this rule in the very rare circumstances where the matter is so complex, where there are so many issues complained about, or if the amount of evidence is so large that it is not an appropriate use of our resource to investigate.

The legislation which set up our Scheme requires our investigations to be undertaken '*quickly and with minimal formality*' and this new rule is intended to apply where the size of the complaint prevents us doing so.

It is also intended to be used, again, in exceptionally rare cases where the complainant is acting in a way that prevents us from undertaking an appropriate investigation. An example of this might be a case in which we were receiving multiple telephone and email contacts per day which prevented us from progressing our investigation. We would only apply this rule in circumstances like this where it was fair to do so, and after warning the complainant about their behaviour and asking them to change it.

Rule 5.7 (q) is another new rule which allows us to dismiss a complaint where there has been "*undue delay in the complainant raising the complaint*".

We would look to use this rule if the complainant tries to raise additional complaints during an ongoing investigation if they should reasonably have known about them at the time that the investigation was accepted. It may not be fair to then introduce them at a late stage for investigation, so we may choose to dismiss them.

#### *When we issue a formal ombudsman decision*

Our current Rules say that if either party disagrees with the findings of an investigation set out in an investigator's case decision, that they can require the matter to go before an ombudsman for a formal final decision. We are changing our Rules to allow us discretion to manage when an ombudsman's decision might be needed, rather than it being an automatic right, whilst ensuring that the right is retained when needed.

The current rules state that, if there is no response from the complainant to the investigator's case decision, we can treat the matter as being resolved by the case decision and take no further action on the matter.

From 1 April 2023, under our new Rules we will be able to treat a case as having been resolved by the terms of the investigator's case decision if the parties' responses to the case decision do not provide us with new evidence in relation to the complaint, or new comments challenging the facts or evidence on which the case decision relies.



We want to ensure, however, that we always issue a formal ombudsman decision on cases where it is fair and appropriate to do so. We will always do this if the complainant raises concerns about the accuracy of the evidence relied on, if they consider that key facts and evidence have not been considered, or if they have new evidence which they consider would change the ombudsman's view on the findings of the complaint set out in the case decision.

If the case decision says that the lawyer needs to do something to put matters right then we would expect them to do so, and if they don't, we can then issue a formal decision that directs them to do so, if required.