



Guidance

**Revision to Scheme**

**Rules April 2023**



## Summary of changes

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Our Scheme Rules set out the framework for how we resolve complaints between authorised persons and complainants. Following a consultation process in April 2022 we are revising our existing Scheme Rules, with the changes applying from 1 April 2023. The changes we are making can be broken down into four areas as follows:

1 – A change to our time limits

2 – Discretion to decline to issue a formal Ombudsman decision after investigator case decision if neither party raise any substantive objection to the findings of the case decision

3 – Changes to Ombudsman discretion to dismiss or discontinue a complaint in certain circumstances

4 – Minor drafting changes to update Scheme Rules including new dates and correcting previous typographical drafting errors

This guide intends to set out what the changes are and how they apply, and what you need to do to prepare for the changes going live.

## A change to our time limits

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From 1 April 2023, the time limits for referring a complaint to the Legal Ombudsman will be no later than:

- one year from the date of the act or omission being complained about; *or*
- one year from the date when the complainant should have realised that there was cause for complaint.

This change is due to our experience with older cases being more challenging to investigate due to factors such as difficulties with gathering evidence, faded recollection of events, closed service providers, and lawyers having moved on or retired since the complained about events took place.

We are not changing our time limit rule that requires complainants to bring their complaint to us within six months of the date of the final complaint response.

Please note, however, that although we are reducing our time limits, we are also changing the level of discretion we allow ourselves to accept out of time complaints. Whilst previously the test was “exceptional circumstances” we are now allowing ourselves discretion to accept complaints in circumstances where we determine it to be fair and reasonable to do so.

## Discretion to decline to issue a formal Ombudsman decision if no substantive comments are provided in response to an investigator's case decision.

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From April 2023, we will have discretion to consider a complaint to have been resolved on the basis of an investigator's case decision if neither party provides any substantive reasons for disagreeing with that decision.

If the response received to a case decision is one simply of disagreement, where no substantive reason is provided as to why the party disagrees, the matter will be referred to an Ombudsman who will have discretion to make the decision to close the complaint as having been resolved by way of the investigator's findings. If those findings recommend that a remedy is payable then we would expect the service provider to honour that recommendation. If they fail to do so within a defined period of time, then the complainant could then request that the case be passed to an Ombudsman for a decision which can then be enforced through the courts if necessary.

## Changes to Ombudsman discretion to dismiss or discontinue a complaint in certain circumstances.

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Our Scheme Rules allow the Ombudsman discretion to dismiss or discontinue a case where there are compelling reasons to do so. The existing Scheme Rules currently set out a number of circumstances where this would be the case.

From April 2023 we are amending our current Scheme Rules to include further circumstances where the Ombudsman can dismiss. These are as follows:

1. The Ombudsman can dismiss a complaint if they were satisfied that the complainant had not suffered 'significant' loss distress inconvenience or detriment.
2. The Ombudsman can dismiss a complaint in circumstances where the size or complexity of the complaint, or the behaviour of the complainant, results in the complaint requiring a disproportionate use of our resources.
3. The Ombudsman has discretion to dismiss a complaint or part of a complaint due to undue delay in bringing it – this principally applying in cases where parties raise further issues of complaint during an investigation that they should reasonably have been aware of at the start.
4. While we have the discretion to dismiss a complaint where the service provider has made a reasonable offer to resolve the matter at first tier and which remains open for acceptance, we are extending this discretion to include offers which have been made and accepted by the complainant prior to them referring their complaint to us.

## Other new rules and drafting changes.

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We are also taking the opportunity to review and refresh the existing Scheme Rules, and from 1 April we are also making the following changes:

1. Formalising the position on complaints by beneficiaries of a will or trust.
2. Addressing how and when an Ombudsman can direct that a face-to-face hearing is required.
3. A slip rule included to allow the Ombudsman to rectify clear and obvious errors without needing to set aside the final decision and re-issue it.

## What do you need to do before and after 1 April 2023?

We are advising service providers, where possible, to inform their clients of the forthcoming changes to time limits now. Changes to client communication and signposting material, such as in client care letters, final decision letters and website information must be updated with the new time limit information from the 1 April.

Suggested wording for client care letters and final response letters is included below:

### **Before 1 April 2023 suggested text for client care letters and complaint handling procedures;**

*If at any point you become unhappy with the service we provide to you, then please inform us immediately so that we can do our best to resolve the problem for you. You can obtain a copy of our complaints procedure here **[insert link]**.*

*If we are unable to resolve your complaint then you can have the complaint independently looked at by the Legal Ombudsman. The Legal Ombudsman investigates complaints about service issues with lawyers/accountants **[amend as appropriate]**.*

*The Legal Ombudsman expects complaints to be made to them within six years of the date of the act or omission about which you are concerned or within three years of you realising there was a concern. You must also refer your concerns to the Legal Ombudsman within six months of our final response to you.*

*However, **please note** that from 1 April 2023 these time limits are changing. From the 1 April the Legal Ombudsman expects complaints to be made to them within a year of the date of the act or omission about which you are concerned or within a year of you realising there was a concern. The requirement to refer your concerns to the Legal Ombudsman within six months of our final response to you remains the same.*

### **Before 1 April 2023 suggested text for complaint responses;**

*This letter is the firm's final response to your complaint. If you choose to accept our response then please let us know by **[date]**.*

*We hope that we have been able to resolve your complaint satisfactorily. However, if you remain unhappy with our response then you can refer your complaint to the Legal Ombudsman, an independent complaints body established under the Legal Services Act, who can investigate complaints about the legal service you have received from us.*

*The Legal Ombudsman expects complaints to be made to them within six years of the date of the act or omission about which you are concerned or within three years of you realising there was a concern. You must also refer your concerns to the Legal Ombudsman within six months of our final response to you.*

*However, **please note** that from 1 April 2023 these time limits are changing. From the 1 April the Legal Ombudsman expects complaints to be made to them within a year of the date of the act or omission about which you are concerned or within a year of you realising there was a concern. The requirement to refer your concerns to the Legal Ombudsman within six months of our final response to you remains the same.*

*You can contact the Legal Ombudsman by:*

*Telephone: 0300 555 0333*

*Email on [enquiries@legalombudsman.org.uk](mailto:enquiries@legalombudsman.org.uk)*

*Post: Legal Ombudsman, PO Box 6806, Wolverhampton, WV1 9WJ*

### **After 1 April 2023 suggested text for client care letters and complaint handling procedures;**

*If at any point you become unhappy with the service we provide to you, then please inform us immediately so that we can do our best to resolve the problem for you. You can obtain a copy of our complaints procedure here **[insert link]**.*

*If we are unable to resolve your complaint then you can have the complaint independently looked at by the Legal Ombudsman. The Legal Ombudsman investigates complaints about service issues with lawyers/accountants **[amend as appropriate]**.*

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*The Legal Ombudsman's contact details are: -*

*Telephone: 0300 555 0333 Minicom: 0300 555 1777*

*Website: [www.legalombudsman.org.uk](http://www.legalombudsman.org.uk)*

*Post: Legal Ombudsman, PO Box 6806, Wolverhampton, WV1 9WJ*

## Further information

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If you have any questions about the guidance provided in this document, please contact

Email: [SRenquiries@legalombudsman.org.uk](mailto:SRenquiries@legalombudsman.org.uk)

Tel: 0300 555 0333