Getting Started with the MCRP

When and how to use the Model Complaints Resolution Procedure

Version

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When to use the Model Complaints Resolution Procedure

For all lawyers, there will be times where a complaint reflects an irretrievable breakdown in the relationship between lawyer and client. Unless and until that happens in a given retainer, the focus should be on resolution.

Complaints can be made at various points during a retainer, or once the work has concluded. Dealing with complaints in an ongoing retainer can have specific features, so this is covered by our guidance *Dealing with Complaints in Ongoing Retainers*.

Definition of a complaint

Our **Scheme Rule 1.6** defines this for our purposes:

> Complaint means an oral or written expression of dissatisfaction which:
> a) Alleges that the complainant has suffered (or may suffer) financial loss, distress, inconvenience or other detriment; and
> b) Is covered by Chapter 2 (who can complain about what).

Part b) of the test is effectively a jurisdictional question, so it is part a) that will matter most frequently.

We recognise that lawyers will have their own business practices and vocabulary, such as "informal complaints", "expressions of dissatisfaction", and so on. However, if a complaint meets the definition set out above, regardless of where it is dealt with in your process, the consumer can refer that complaint to LeO if they are not happy.

We sometimes receive complaints escalated to us, where the consumer believes they've made a complaint to their service provider, and the service provider tells us they haven't. Where there has been contact, we find there are times where this is a difference of interpretation of the contact.

Our strong advice is, if you are not sure whether a complaint is being made, ask. If the consumer intends to make a complaint, it can be processed accordingly, and you can ensure a final response is provided. And, if they don't, you needn't initiate your internal procedure.

Example – when it's not a complaint

Ms H had instructed her solicitor in a house purchase. When she received the completion statement, there were items on the bill she was not expecting, so she got in touch with the solicitor and said, "Can you please explain these additional items? I have to say they are unexpected." The service provider explained the extra charges and the extra work, and Ms H confirmed she was happy with that.

This was not a complaint, as Ms H did not allege any impact or detriment. She simply asked for an explanation.

Example – when it isn't clear

Mr P instructed his barrister to prepare a witness statement ahead of a hearing. When Mr P received the witness statement, he was unhappy that the barrister had not included photos and other evidence he had sent the barrister. Mr P emailed the barrister and said, "I'm not happy with this statement and I don't think it sets out my case in the best way, so I am now worried about the outcome of the hearing. Can you please make the changes to the statement I have highlighted?"

This email indicates that Mr P is unhappy and says he is worried, which is an allegation of detriment. The barrister should ask Mr P if he wants to use the complaints procedure or discuss appropriate amendments to the witness statement.

How a complaint may be made

A complaint may be made in writing, on the telephone, in an online meeting or face-to-face. What matters is that there is an expression of dissatisfaction and then that there is some form of detriment alleged to flow from it. That second part might be satisfied simply by the emotions expressed in the complaint, as implied by the inclusion of distress and inconvenience in the definition, as examples of detriment.

We recognise that written complaints are attractive, because they typically record the details of the problem clearly for lawyers to address. We strongly discourage <u>requiring</u> people to submit complaints in writing, however, because the person might already have done what they need to do for our purposes, if they've satisfied our definition in what they've said to their lawyer or their lawyer's superior. It's fine to explain the preference and the reason for it, but you should be aware (and so should the complainant) that the complainant may make their complaint in other ways. This means they can then bring their complaint to us without having written to you.

The distinction of "formal v informal" complaints is one we consider unhelpful. If it's a complaint, it should initiate your complaints procedure. If it isn't a complaint, it needn't always become one.

Resolving service issues before they become a complaint

This remains one of the most important parts of customer service for us. The best time to resolve a complaint is before it happens.

Sometimes, lawyers will anticipate a problem, fix it quickly and then report that to their client. This could be something as simple as overrunning appointments preventing them from meeting at the agreed time, or it could be something significant like an unpaid court fee. Often, we find that ownership of the solution and an open conversation with the client can stop a complaint from materialising.

You should always tell them what's been done, though, because it can easily look to an unhappy consumer that the issue has been discovered and covered up, even if the lawyer has acted in good faith in fixing the problem.

If the consumer is the one to bring it to your attention, they're likely telling you because they believe you can fix it.

- Consider straight away whether this is a complaint, using our definition.
- If you aren't sure, ask them.
- Explain that you have a complaints procedure and ensure that however you proceed is with the complainant's agreement.

Minor things that can be solved quickly – an amendment to an invoice, an apology or some corrective action – rarely need to trigger the complaints procedure. The individual lawyer or team handling the work can explore resolving the issue to the client's satisfaction. If they do, the client might not actually want to make a complaint about it, so the procedure won't be needed.

Example – resolving an issue before it becomes a complaint

Mr A rang the reception number of Firm Z. He asked to speak to the Senior Partner and was soon put through to her. Mr A told the Senior Partner he was "furious" with the attitude of his solicitor and "fed up" of chasing for "updates that were promised and never come".

The Senior Partner apologised that this had been Mr A's experience, assured Mr A that she'd speak to his solicitor and that either his solicitor or she would call him back within the hour.

When the solicitor called Mr A back half an hour later, the solicitor apologised, gave Mr A an update and explained what the next steps in the case were. Mr A thanked his solicitor for the update. When asked if he wanted to take the matter further, through Firm Z's complaints procedure, Mr A said, "No".

Requiring something like this to trigger Firm Z's complaints procedure would make the resolution of the complaint less likely, because it would deny the quick fix that was evidently available.

If, instead, Mr A had made clear that he didn't consider the matter resolved, Firm Z would need to start the complaints procedure.

Who can make a complaint?

The list of who can bring a complaint to us is in **Scheme Rule 2.1**, and there is further guidance **here**. In short, anyone receiving the benefit of a service is likely to be able to make a complaint.

It won't always be obvious: lawyers acting for a bank might also provide a service to the couple getting a remortgage.

The beneficiaries of an estate or trust will be in jurisdiction, too, whether you are acting for the estate or trust, or whether you are only acting for one of the executors or trustees. We sometimes see lawyers telling beneficiaries that they aren't the firm's client and thus have no basis to complain. That's wrong. Beneficiaries are able to complain to us, so a complaint from them should be handled in the same way as one from the executor.

It won't always be a client that brings a complaint to you. If they are within our jurisdiction, they may escalate their complaint to us, so you should treat their complaint in the same way as you would a client's.

Time limits

The time limits for people to bring their complaints to us are set out in our **Scheme Rule 4.5**, and there is further guidance **here**. We also recognise that lawyers may have different regulatory requirements for the time they have to handle complaints. You must ensure you are meeting the relevant timescales set by your regulator.

Sometimes, a client won't realise they have basis for a complaint until long after the retainer. The time limits we operate say that, provided they bring the complaint within a year of finding out, we'll accept the complaint.

Unless there is persuasive evidence against it, we will generally take the person complaining at their word on when they found out about the problem.

Example – timescales for bringing a complaint

Dr B came to sell her house and was told by her selling solicitor that she didn't own the garage she'd been using for the last five years. She contacted the conveyancers that had handled the purchase, Y & Co, who treated the allegation of failing to spot that the garage wasn't included as a complaint.

Y & Co rightly dealt with the complaint under its complaints procedure.

Further enquiry might lead Y & Co to conclude that Dr B should have known the garage wasn't included, or even that she gave instructions to proceed on that basis. Nevertheless, the complaint shouldn't be dismissed on the grounds that it is out of time, because Dr B has presented this as being something she has only learned of, when she came to sell.

Whether you deal with a complaint that comes to you outside these time limits is a matter for you to decide on. However, it's important to be aware that we do have the discretion to extend our time limits, as set out in **Scheme Rule 4.7**:

> *"If an ombudsman considers that it is fair and reasonable in all the circumstances, they may extend any of these time limits to the extent that they consider fair."*

If the complaint falls outside the Legal Ombudsman's scope

Our jurisdiction and time limits need not define who can make a complaint to you.

A complaint from a widow who is unhappy that she has been left out of her late husband's will follows the same principle in this respect as a complaint from a large company client.

Similarly, if a complaint comes to you too late to be escalated to us, you are still able to deal with the complaint. Doing so won't change whether we accept it for investigation, if it's referred to us, but resolving the issue means it never gets to us.

Whether you follow our Model Complaints Resolution Procedure for these cases, or prefer an alternative, is a business decision for you.

If you decide to respond to a complaint that may be outside the scope of LeO, you should explain this to the consumer in your response, so that the recipient – and anyone else who comes to read the response later – is clear on your position.

Summary

Resolving any dissatisfaction someone has with your service is best done quickly. The Model Complaints Resolution Procedure follows that same principle, but it's also important to recognise that not everything is a complaint.

A complaint gives you an opportunity to demonstrate the quality of your service. Listen, engage, reflect and respond.

How to use the Model Complaints Resolution Procedure: Timescales and Process

The Legal Ombudsman won't ordinarily accept a complaint from a consumer until either the internal complaints procedure has concluded or eight weeks have passed since the initial complaint was made.

Each regulator has its own rules on complaint handling, some of which require a response to a complaint sooner than eight weeks. This guide refers to the maximum timescale of eight weeks, but it recognises that some service providers have a shorter timescale, and so this guidance refers to the relevant timescale as "up to eight weeks".

This guide sets out the timescales for each stage of the MCRP, and how to make best use of your and the consumer's time during that period.

It's important to be clear that the MCRP does not change any regulatory obligations you have. For example, if your regulator requires you to perform an action within a shorter timeframe than in the MCRP, you must follow your regulator's requirement.

Whether you have a maximum of eight weeks or less, this timescale starts from the date a complaint is made. This is the date of the complainant's complaint to you.

1. Acknowledgement

Complaints should be acknowledged within five working days. This is part of the overall up to eight-week period and so will need to account for statutory holidays.

The acknowledgement should include providing a copy of your complaints procedure. You should clearly set out whether this is a complaint you can deal with and the next steps you will take.

Consideration should be given right at the beginning as to whether this is a complaint that you can resolve quickly, perhaps with a minor change to an approach, an apology or some other action. If you do think you can resolve it quickly, you should explain that to the consumer. You can then take the necessary action and confirm that the consumer is content that the action resolves their concerns.

You are also free to use the acknowledgement to seek to confirm complaints, if they are clear and straightforward and it makes sense to do so.

The timescale here is intended to be a maximum; there is no reason a complaint cannot be acknowledged sooner if it is considered suitable for Early Resolution.

2. Early Resolution

Not all complaints can be resolved quickly, but many can. For every complaint you receive, you should consider whether it is suitable for Early Resolution. If a complaint cannot be resolved early, then you can tell the consumer that and pass the complaint directly to the investigation stage. Importantly, whether a complaint is suitable for Early Resolution is a decision for you. The important thing is that, if you chose not to use the Early Resolution process, you tell your consumer that you'll be passing the matter straight to the Full Investigation stage.

Complaints that might not be suitable for Early Resolution include complex and detailed complaints, complaints about a matter which concluded some time ago, or complaints where it is obvious from the outset that you and the consumer have significantly different views on what happened, or on how to put it right.

Every complaint is different, so you should consider potential resolution options at the earliest available opportunity in every case.

If you do consider a complaint suitable for Early Resolution, our advice is that you should spend no more than 10 working days on this part of the process. However, we recognise that there are a range of reasons why an Early Resolution may need to take longer, or that there might be an anticipated benefit to extending it. So, if you want to apply a longer timeframe here, you can do so, and still fully adopt the MCRP.

Ultimately, the complainant has a right to an answer from you and you have an up to eight-week window to give that answer. You should tell the consumer this and explain what you plan to do to resolve the complaint.

Example – resolved by early resolution

Ms S raised a complaint that she is upset that she has not had an update on her matter for four months from E and B Solicitors.

E and B Solicitors acknowledge the complaint and can see from the file Ms S has not had an update for four months. They contact Ms S and ask if providing an update and then agreeing to provide updates, when there is something to tell her, in line with their standard service levels, would resolve her complaint.

Ms S accepts that it would. E and B Solicitors provide an update and make sure there is a note on the file to provide Ms S with regular updates. They confirm that to Ms S in their update email, and she confirms her complaint is resolved.

3. Full Investigation

If a complaint cannot be resolved in the Early Resolution stage, or it is unsuitable for Early Resolution, it should be passed to the Full Investigation stage.

Any steps that have already been completed at the Early Resolution stage do not need to be repeated at Full Investigation.

You have what is left of the up to eight-week period to provide a final response to the consumer. Whether the complaint is passed from Early Resolution or straight to Full Investigation, you should confirm to the consumer when they can expect to receive a response, ensuring that you are meeting the relevant regulatory timescales

In that period, you should:

Ensure you are fully aware of all the issues of the complaint.

If these are not clear from the consumer's complaint, or if they have not been established during an Early Resolution attempt, you should contact the consumer at the earliest opportunity to confirm their complaints and ensure that you fully understand what exactly is being complained about.

If the consumer does not respond to your attempts to contact them within a reasonable period of time, you should confirm that you are proceeding with the investigation on the basis of your understanding of their complaint, and then proceed to the next step.

Investigate the complaint.

You should assess each of the issues of complaint and consider whether the evidence you have indicates that your service was reasonable.

Prepare a final written response.

Where possible, the final written response should:

- Address each issue of complaint individually;
- Refer to evidence to support your findings;
- Reach a clear conclusion in respect on each complaint issue;
- Reach an overall conclusion as to whether you consider your service was reasonable;
- If you uphold any complaint, consider the impact and appropriate remedy; and
- Clearly set out how and when a complainant can escalate their complaint to the Legal Ombudsman.

You must ensure your final response is provided in line with the regulatory timescales that apply to your business. Even if you have asked for additional information from the consumer, if it has not been provided, you should proceed to issue a response, making it clear that the response is provided on the basis of the information you have available.

Your final response must also include all information which is required by your regulator.

A complaint gives you an opportunity to demonstrate the quality of your service. Listen, engage, reflect and respond.

How to use the Model Complaints Resolution Procedure: Early Resolution

This guide is intended to support service providers to resolve complaints at the earliest possible opportunity.

It is a common misconception that all complaints require a lengthy and detailed written response. This is often not the case: many complaints, even those in longer or more complex matters, can be resolved quickly.

Features that make a complaint suitable for Early Resolution

Any complaint has the potential for Early Resolution, but some naturally lend themselves to it more easily.

a) Complaints that are easy to put right

- A complaint about a communication failing, brief delay, failure to provide an update, or a minor costs issue are all things that can be put right simply and quickly.

b) Straightforward and clear complaints

- Some complaints will lack clarity and require additional explanation. This doesn't mean they won't be suitable for Early Resolution. However, complaints that are clear and straightforward are more likely to lend themselves to Early Resolution, as they generally won't require additional correspondence with the consumer.

c) Complaints where the remedy is clear and reasonable

- When a consumer is clear about what they want it is easier for you to consider whether you are content to offer that remedy, in the event you agree there is a service failing.

d) Complaints where you accept there is a service failing

- In circumstances where you were expecting a complaint, or, upon receipt, are not surprised by the complaint, you should be open to Early Resolution by making an offer to put what went wrong right.

e) Complaints that can be resolved with an explanation

- Some complaints arise from a simple misunderstanding, or because of an incorrect expectation, and can be quickly resolved with an explanation.

Types of Early Resolution

a) A reasonable offer

Where you receive a complaint that you either uphold or would be prepared to make a commercial offer to resolve (should you consider that to be appropriate), the key to an Early Resolution is making a reasonable offer.

To support your consideration of what we would consider to be a reasonable offer, you should consult our **Guidance on Remedies**.

You should also make it clear to the customer you have used the Legal Ombudsman's guidance, and say why you consider the offer to be reasonable. Referring to LeO's **case studies** or other materials to support your position may also be helpful.

Example – a reasonable offer

Mr B instructed Z & Co in his house purchase, but there was an undue delay in submitting the application for registration.

In his complaint, Mr B told Z & Co that he was worried the registration would not take place before he needed to remortgage his property, following the end of his agreed interest rate. He also explained that he had contacted the firm and that they had been able to expedite the matter, so it was registered in time. However, he still described a period of concern and worry.

Z & Co agreed that there had been a delay on their part in submitting the application, and wanted to resolve Mr B's complaint, so they offered £200. In doing so, the firm argued that this was in line with the Legal Ombudsman's guidance for a modest remedy, which it believed appropriate, as the issue was short-lived and had now been resolved. Mr B was happy with the offer and agreed to resolve his complaint at first tier.

b) Doing work to put it right

Early Resolution isn't always about a financial offer. Often in ongoing cases, consumers want the matter to be progressed more quickly, to be updated more frequently, or for a specific action to be taken.

Particularly in complaints about delay, or communication, or for example in respect of requests for information, doing work to put something right can lead to a speedy resolution. The important thing is to be clear about what you will do, and then do it.

Example – non-financial resolutions

Mrs P complained to G Ltd that she felt her case handler was rude and did not reply to her emails.

G Ltd reviewed the file, noted several instances when the case handler did not respond to Mrs P, and that his case notes reflected that his interactions with Mrs P lacked empathy.

G Ltd contacted Mrs P to offer an apology and a change of case handler. They also assured her that future responses would be provided in line with their standard timescales. Mrs P was content to resolve her complaint on the basis offered by the firm, and indeed was so pleased with her new case handler that she left a positive review at the end of the retainer.

c) Negotiation

In instances where you are prepared to accept a service failing or want to make an offer to resolve a matter, you may want to consider whether you'd be prepared to discuss this with the consumer. This is especially relevant where you and the consumer don't agree on a remedy, but aren't far apart.

d) Addressing a misunderstanding or demonstrating why your service has been reasonable

Some complaints can arise from a misunderstanding, such as how long a matter can take, and it may be possible to explain to the consumer what they have misunderstood and put their mind at rest.

The same is also true for instances where your service has been reasonable: if you can clearly evidence and explain it, then it may be possible to resolve a complaint on that basis.

Example – an explanation

Mr M instructed B Ltd to advise on the prospects of success in a litigation matter. Mr M raised a complaint that the firm had taken too long to provide their advice.

B Ltd reviewed the complaint and noted that Mr M had been told they would provide their advice 14 days from receipt of all the necessary information. They also noted that whilst Mr M had initially provided most of the information, there had been a delay in providing the final pieces, the firm then provided their advice within 14 days of receipt of that final information.

B Ltd were able to explain this to Mr M, and showed him the explanation in their terms and conditions as to their approach, which he had been provided with previously. As a result, Mr M agreed to conclude his complaint with no further action, as he accepted the service provided was in line with what he'd been told to expect.

Early Resolution administration

The outcome of a complaint should always be confirmed to the consumer. In the case of a matter resolved in Early Resolution, this should be by a simple follow up email or letter. We have produced a template which you might find helpful for this. The Early Resolution confirmation will be your final response for matters that conclude at this stage. It's also a reference for you and the consumer, should there be any disputes later.

You should ensure that you clearly state that following the consumer's agreement to the resolution, that this is the end of the matter, and no further action will be taken in respect of the complaint.

Where a particular action has been agreed, this should also be confirmed, so the consumer knows exactly what is being done. This could also include explaining to the consumer what you have learned or will do differently in the future.

You should also ensure that the signposting in the Early Resolution confirmation letter or email meets the requirements set by your regulator.

Resolving a complaint at the earliest possible opportunity provides a genuine opportunity to learn from the issue and avoids a more timely and costly complaint.

How to Use the Model Complaints Resolution Procedure: Full Investigation

Not every complaint can be resolved through the Early Resolution stage. Although the Full Investigation stage is the more formal and the final stage of the Model Complaints Resolution Procedure, there remains scope for some complaints to be resolved even at this stage.

Scope of the Full Investigation stage

As this is the last stage of your procedure, you have the remainder of the up to eight-week period from receipt of the complaint available. There is also no need to repeat any steps already taken under the Early Resolution procedure, where this has been tried.

Whilst this can be extended by agreement between you and the complainant – and that might make sense to you both, if there is a lot of work to be done, or if discussions about resolution are encouraging – your default should be the up to eight-week deadline. This should be the complainant's expectation, too.

You ought to be alive to the fact that, once the up to eight weeks are up, the complainant may come to us, and, if they do, we are unlikely to send them back to you.

The conclusion of the Full Investigation stage will be your final response. We have prepared a template for this, which we encourage you to use as a starting point for your letter.

Principles of good complaints handling at Full Investigation

When complete, the investigation itself must not only be the product of a thorough, fair-minded assessment of the service, but it must be seen to be so. You are looking to persuade the complainant that they have received a fair answer to their question.

Listen	Be open-minded. What's motivating the complaint? Avoid taking a complaint personally and never assume it's unmeritorious or outcome-driven.
Engage	Make contact to establish scope and desired outcome. This could be fixable quickly. It's a great chance to demonstrate you have listened.
Reflect	Where there are differences of interpretation of events, why is that? What does the evidence tell you?
Respond	Demonstrate you know your client. Set out your analysis clearly, in plain language. Tailor your response to the audience and look to be understanding in your approach.

Agreeing the issues of complaint

At the start of your investigation, you should look to get a clear list of the issues of complaint, if you haven't already. This might have come organically from an Early Resolution attempt, or even because the complainant has given you a ready-made list already. Nevertheless, it is often going to be helpful for you to contact the complainant and get their agreement on the list. If you do so by telephone, strongly consider confirming it in an email.

Whilst the general theme of a complaint is usually apparent, defining the question you are being asked can present some challenges.

Not all complainants will know what has gone wrong; just that there has been an unexpected outcome and that they hold you responsible. That might be something that was in your control (communication or quality of advice) or out of your control (their unrealistic expectations, despite your best efforts). Either way, you should look to get a clear understanding of what it is you're being asked to give a response to.

When a complaint comes to the Legal Ombudsman, we'll set out the issues of complaint in a list, all worded as allegations of something the service provider did or didn't do. We'll specifically get the complainant to confirm this defines their complaint and that then forms the scope of our investigation and conclusions. Try to mirror this.

As well as providing certainty of process, there are practical benefits of this approach in how you structure your investigation:

- You have a clear question to answer: did you fail to do that thing?
- You naturally are drawn to consider whether that thing was something you would expect to do, in the circumstances of the case, and why.
- You will have a natural reference point for the complainant's position: their expectation that you would do that thing.
- Your review of the evidence will be focused on the circumstances of that thing.
- Your answer to the complainant will deal directly with the question being asked and, through this, with the complainant's expectations.

For some service providers, the person handling the Full Investigation stage won't have had any dealings with the case before and might even have no experience in the field of law the complaint concerns. The approach above should help make the exercise of drawing and sharing conclusions both transparent and trustworthy.

Do

- Try to keep to the same format of the issues of complaint.
- Stick to defining the allegation of a failing.
- Try to define each allegation in a single sentence.
- Word it in a way that accurately reflects why the person is unhappy.

Don't

- Include the effect on the complainant. That comes later, if relevant.
- Use partial language. You need to show you're being objective.
- Rely on general terms like "delay" or "poor communication". Be specific.

With a list agreed, you can move with confidence to investigating the complaint.

The evidence to consider when reviewing a complaint

Whilst it is true that the analysis of evidence is second nature to most lawyers, complaints can be imbalanced by emotions in a way that the legal service typically isn't. No one likes being complained about and we know how much pride the profession has in its work. The investigation exercise has to be objective, and it should be obvious to any reviewer that this is what's happened.

If the issue of complaint has been defined well, the relevant evidence should normally be obvious. This is why general headings without good definition create problems:

Example – setting out what the complaint is

The senior partner of Firm T (Ms T) is investigating a complaint from Dr J, relating to her TOLATA claim, which lasted between 2017 and 2024. The "file" is in four boxes, each with three large ring binders inside. Compare the investigation required for these alternative wordings for the same allegation, of which Dr J might be agreeable to each:

a. We failed to keep you updated on the progress of your case
b. We failed to keep you updated for court hearings
c. We failed to keep you updated in the period between April and June 2022, leading up to the court hearing of 23 June 2022.

The last of these (option c) gives Ms T a clear understanding of which part of the file she'll be looking at, and Dr J also gets a clear understanding of what the response will cover. The others will see Ms T do far more work than she needs to or than Dr J wants. How many court hearings were there? Should she look at every interaction Firm T had, across the entire seven years?

Defining the allegation well goes to show you understand the problem.

You will likely rely heavily on the file, if it is available to you. You will need to choose what weight you attach to any evidence you get, whether from your own records or those provided by the complainant.

Evidence isn't limited to documents: anything you gather during your investigation counts, including recollections of events. The weight you attach to that evidence must be fair and reasonable.

Whilst the decision of what weight to attach to evidence is yours, it is fair to recognise that contemporaneous evidence tends to be more reliable than recent recollections of things that happened some time ago, however sincere and however strong.

You should be willing to test the evidence, nevertheless, as we will sometimes want to see communication either side of a critical letter to understand its context: what prompted it? Did it address the issue? Did the complainant respond? Would you have expected them to?

The absence of evidence can also indicate that something wasn't done that should have been, and, if you should have done it but can't demonstrate you did, your position could well be hard to defend, particularly if it is based only on historic recollections.

Once you have what you need, you should move to drafting your final response.

The final response

As you'll see in our template, there is a clear structure:

- An introduction, setting out what you've done and the details of the complaint you're responding to;
- Your assessment, going through each issue in turn and setting out your conclusions;
- Your findings, which should include whether you consider the service fell below a reasonable standard overall;
- Any remedy proposal, if relevant; and
- Details of the Legal Ombudsman, should the complainant want to take the matter further (you must ensure this signposting meets the requirements of your regulator).

The idea is to focus the response on the allegations in the complaint and, if there is merit in the allegations, on a proposal for resolution.

Our suggested structure for tackling each issue in turn:

- The complainant's position
- Any comments you can make about general expectation of a reasonable service – what would you assess as reasonable?
- What evidence you've seen
- What you find and why
- Finish with a clear line on whether you uphold this issue of the complaint

The final response is your final chance to resolve the complaint under your complaint procedure. There is often still a chance to resolve the complaint at this stage.

Legal services can be highly emotional and unfamiliar to many people going through them. It is inevitable that there will be times where the understanding of the consumer and the lawyer on what should be expected will differ. In this context, when empathetically and carefully delivered, a good explanation of why a service was reasonable can be as effective as a remedy proposal.

Remedies

The starting point for any remedy should always be to assess the detriment that has flowed from any failings in the service.

Our approach to remedies is to put the person complaining in the position they would have been in, had the service been of a reasonable standard. If you can define this clearly, it will make the exercise of coming to a fair remedy much easier.

Compare what happened with what should have happened. The difference between them is the detriment.

Our **Guidance on Remedies** gives you and the complainant a reference point, and we expect that its independence will help both sides develop a view on a fair outcome.

We recognise that there will sometimes be other considerations in any proposal you make, including commercial factors. These are for you, but you should be aware that we will never direct you to pay a remedy where we don't believe one is fair, and we will never direct you to pay a larger remedy than we believe to be fair.

Concluding an investigation

Once you have sent your response, you have no control over whether the complainant responds to you. It is sensible to set a deadline for a response, if you have made an offer, but the complainant will ultimately decide whether they contact you.

If you get a response, accepting your proposal, you can handle any administrative requirements promptly and close your file. If the response is a rejection, your process is at an end, so remind the complainant of their right to go to the Legal Ombudsman. If the response is to make an offer or counteroffer, you have no obligation to negotiate, but you may do so if you wish. We've prepared a template letter for you to inform complainants who don't accept your final response that your process at an end.