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A Guide to The Legal Ombudsman Service

Legal Ombudsman Service

Dealing with complaints can be a stressful and worrying time for a firm. Here we look at some of the key information and guidance in dealing with matters which have been referred to the Legal Ombudsman Service.



Who are the Legal Ombudsman Service?

The Legal Ombudsman Service ('LeO') was created by the Legal Services Act 2007 and was established in 2009. The service deals with service complaints between clients and regulated legal service providers. These include solicitors, licenced conveyancers and legal executives.

When can a matter be referred to the LeO?

A matter can be referred to the LeO once a complaint has been made to the legal services provider and they have provided a final response or 8 weeks has passed. The referral must be made within 6 months of the final response and within one year of the client finding out about the alleged problem.

Complaints made by individuals, charities, clubs, trusts, associations, societies or micro-enterprises can be referred to the LeO. While most referrals will be made from clients they can also be made by related parties such as beneficiaries or prospective clients. If this is the case it should be considered carefully whether these would be within the LeO's jurisdiction. The Scheme Rules say that the complaint "must relate to services which the authorised person provided to the complainant" or "offered, or refused to provide, to the complainant".

The LeO can look at matters relating to the service which has been provided such as communication with the client, costs information and alleged delays.

How long will the process take?

The LeO aims to deal with complaints within 3 months, however, this can be longer depending on the complexity of the complaint made.

What to do on receipt of the notification of referral



1

Once the referral has been made LeO will notify the firm. You should let your broker (if relevant) and insurer know that the matter has been referred. The initial complaint should have already been notified to your insurer, with any response being approved, so they should have a record of the claim.

2

You should first consider whether LeO have jurisdiction to look at the complaint, for example if a relevant person or entity has made the referral and if this is within the timescales set out. Furthermore, it may be possible to argue that the complaint is not within the LeO's jurisdiction as it should be dealt with by a court. The LeO's guidelines confirm that the scheme is intended for complaints that can be dealt with "quickly and with minimal formality" and they may consider that a matter involving allegations of negligence are not appropriate. It should be considered with your insurer whether this should be challenged as it could be preferable for this to remain with the LeO process.

3

The firm will be provided with the opportunity to make submissions on the complaint including providing any relevant documents. Depending on the response provided when the complaint was first made it may just be a case of providing a further copy of this correspondence, or that a firm wants to make further comments. Any proposed response should be discussed and approved by your insurer prior to sending.

Response

Once the firm has provided their response, the investigator will review the information provided by both parties and will come to a proposed decision which will be shared with the parties. If no agreement can be reached at this point then the investigator will provide a case decision and send this to both parties.

What can the Investigator decide?

The investigator can either reject or uphold the complaint. If the complaint is rejected then the firm will not have to take any further action. There are a number of decisions that the investigator can make including, having to offer the client an apology, refunding fees, carrying out further work or paying compensation.

The maximum compensation which can be awarded is £50,000 but this does not include any refund of fees. It should be noted that under the SRA Minimum Terms and Conditions, which govern solicitors PI insurance, any refund of fees awarded by the LeO will not be indemnified under the policy and so generally will not be covered unless your insurer provides specific coverage in this regard.



Decision

What happens once a decision has been made?



If both parties accept the decision, then the LeO will consider this resolved. If either party disagrees with the investigator's decision they have the option to provide further comments to the investigator within 14 days of the decision. The investigator will review these and consider if this should be referred to an Ombudsman. If the matter is referred to an Ombudsman they will review the complaint and evidence further and come to a final decision.

Once the final decision has been issued the client will have the opportunity to accept or reject this. If they accept, this will be binding on both parties regardless of the legal provider's view on the decision and they will have to take the steps set out in the decision to remedy the matter.

If the final decision is not accepted by the client this will not be binding on either party. The client will still be able to pursue the claim through legal proceedings.

While dealing with a complaint referral to the LeO can be worrying, the firm will have a chance to put forward their comments and respond to the investigator's decision and request that this is referred to an Ombudsman. Your insurer and broker will be able to assist you with any response and guide you through the process. You should ensure that they are kept updated throughout the process.

This guide was written by Charlotte Major at Collegiate Claims.

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