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Introduction

1. Costs Lawyers who are regulated by the CLSB must have in place, individually or through their employer, an internal procedure for handling complaints from clients or members of the public.
2. Complaints that are made directly to a provider of legal services are often referred to as “first-tier complaints”, while complaints that are escalated to the CLSB or Legal Ombudsman are known as “second-tier complaints”.
3. This guidance note is intended to help Costs Lawyers produce an effective procedure for handling first-tier complaints. It also covers questions that the Legal Ombudsman or CLSB might ask about the adequacy of a first-tier complaints procedure.

The need for a complaints procedure

Why do I need to have a complaints procedure?

4. Pursuant to section 112 of the Legal Services Act 2007, it is a requirement that a Costs Lawyer has effective procedures in place for the resolution of service and conduct complaints. The CLSB seeks to ensure that consumers of Costs Lawyers’ services have confidence that any complaints will be handled appropriately, and that a Costs Lawyer’s complaints procedures are fair, transparent and provide effective safeguards.
5. The CLSB’s primary requirements in relation to first-tier complaints procedures and complaint handling are contained in the Costs Lawyer Code of Conduct under Principle 3 (Costs Lawyers must act in the best interests of their client). Pursuant to the Code of Conduct, Costs Lawyers must provide for an effective first-tier complaints procedure which is simple and transparent, ensures that a complaint can be made by any reasonable means, and takes into account the individual needs of clients (in particular the needs of vulnerable clients).

Do my practising arrangements affect the need to have a complaints procedure?

6. You are required to have a complaints procedure in place if you work:

For a firm of Costs Lawyers
(or similar organisation)

Your employer should have a first-tier complaints procedure in place for your use

As a sole practitioner

You will need to produce your own first-tier complaints procedure

For a firm of solicitors

Your firm should have a first-tier complaints procedure in place that complies with the requirements of the Solicitors Regulation Authority, which the CLSB will accept as being adequate so long as it is provided to your clients in all cases

In-house

But only insofar as you provide costs law services externally to clients other than your employer

Getting started

What is a complaint?

7. A complaint means an oral or written expression of dissatisfaction, whereby the complainant communicates a belief that something should have been done differently.
8. A complaint might involve an allegation that the complainant has suffered (or could suffer) financial loss, distress, inconvenience or other detriment. A complaint might also include a request for the situation to be remedied, but this will not always be the case.

What are the requirements for a complaints procedure?

9. Your complaints procedure should:

- Be in writing.
- State the date it became effective or was last updated.
- Be clear and simple with as few steps as possible.
- Identify the person to whom the complaint should be made.
- Be reasonable, fair, proportionate and responsive.
- Encourage complaints to be made as soon as possible, and set out the time limits for raising unresolved complaints with the CLSB or the Legal Ombudsman (see paragraphs 34 and 35 below).
- State clearly the timeframe for a complaint to be resolved – this should be within eight weeks of receipt of the complaint.
- Advise that if the complainant is not satisfied with the outcome of the complaint under the complaints procedure, or the complaint has not been resolved within eight weeks, then the complainant has the right to refer a service complaint to the Legal Ombudsman, or refer a conduct complaint to the CLSB within the time limits specified.
- Provide contact details for the Legal Ombudsman and the CLSB.
- Advise the complainant of an approved alternative dispute resolution (ADR) body and state whether you agree to use that body's services.

Providing your complaints procedure

Should a complaints procedure be published?

10. Under its 2016 legal services market study, the Competition and Markets Authority recommended that all providers of legal services publish their complaints procedure on their website, where they have one.

When should I provide a client with my complaints procedure?

11. Research conducted by YouGov and the Legal Ombudsman suggests that many clients do not recall being provided with details of the complaints procedure in the

relevant client care letter. It is therefore important to ensure that your client care letter is easy to understand and not overly long, and that the complaints procedure is clearly identifiable. It is also important to remind the client of your complaints procedure as their matter progresses.

12. In particular, your complaints procedure should be provided to your client on each of the following occasions:
 - when the client first contracts with you;
 - if an existing client, upon a new instruction at the first appropriate opportunity;
 - in the event of a change of contractual terms;
 - in the event of a change to your complaints procedure;
 - once a complaint has been made;
 - at the conclusion of a complaint;
 - when asked for, at any time.

Model complaints procedure

13. In the Annex to this guidance note you will find a model complaints procedure for you to adapt for your use. It complies with this guidance and can form the basis of your procedure to be published on your website and be provided to your clients.
14. It is not mandatory to use the model complaints procedure; you may use any procedure that complies with this guidance and the Code of Conduct. If you do choose to use the model complaints procedure, you should augment it with relevant information about your specific organisational processes.
15. The model complaints procedure is drafted for use by organisations within which Costs Lawyers practice. If you are a sole practitioner, or you work in an organisation with other types of advisers (such as solicitors or unregulated law costs draftsmen), you might need to adapt the model complaints procedure so that it refers to you personally rather than to your organisation generally, or otherwise accurately

informs your clients about the scope of their right to make a second-tier complaint (see paragraphs 28 to 37 below).

16. It might also be useful for you to refer to the Legal Ombudsman's published guidance [Signposting consumers to the Legal Ombudsman](#), which suggests text to use in client care letters and at the conclusion of any complaint.

Handling complaints

What kind of approach should I take to complaint handling?

17. Research highlights how the type of language used in the complaints process can affect clients' decisions, particularly whether to escalate a complaint. In 2017, the Legal Ombudsman suggested the following tips for handling complaints:
- a) **Keep it simple** - Avoid jargon, pretentious language and using legal or technical terms. They may seem commonplace to you but they can be confusing and intimidating to the client. If you need to use legal or technical terms, you need to explain what they are.
 - b) **Take it seriously** - Ensure that it is clear that you are taking the complaint seriously. Overly informal language or poor grammar / processes can suggest that no formal investigation is underway; avoid phrases such as "I've had a word with (X)".
 - c) **Acknowledge stress or inconvenience caused** - For many, the decision to make a complaint is not taken lightly. Complaining is seen as negative activity, the client may lack confidence in the process and fear jeopardising their relationship with you. It is therefore important to empathise with the situation they are in and reassure them that you understand their position.
 - d) **Don't be afraid to apologise** - Start with a proper apology and avoid burying it at the end of lengthy letters. If you've made a mistake say 'sorry' without caveats and conditions. Justifying what has happened can play to client fears that the complaint handling stage will be subject to the same negativity as the

original transaction. Avoid subjective sentences such as “I’m sorry you feel this way” or “I’m sorry you have felt the need to complain”.

- e) **Appreciate feedback** - Demonstrate to the client that you appreciate their feedback and the opportunity to improve your service. There can be positive aspects of complaining, this can also reassure the client that their complaint is being taken seriously. For example, “We assure you that client satisfaction is a key priority for us and we want the service you receive to reflect that principle”.
- f) **Be clear** - When responding, detail the client’s concerns one by one. Use bold headings to structure the response around the details of the complaint. It is also important to give an explanation of what evidence you have looked at and what your conclusions are. Ensure that, when you signpost a client to the CLSB (conduct complaints) or Legal Ombudsman (service complaints), the information is clear and easy to find. This will reassure complainants and give them a sense of security that there are other avenues.

Who should investigate a complaint?

- 18. YouGov and Legal Ombudsman research has shown that clients would like someone independent to look into their complaint. Where reasonably possible, the complaint investigator should be someone:
 - not involved in the matter leading to the complaint;
 - with the appropriate seniority, training and understanding to provide a good complaint handling process.
- 19. If you are a sole practitioner, you may have to deal with a complaint yourself, but you should consider what arrangements you could put in place. It might be possible for you to arrange for another practitioner, perhaps via the Association of Costs Lawyers, to handle any complaints about your practice or to review your handling of any complaint (in which case you should set out this additional step in your complaints procedure).

What if a client makes a verbal expression of dissatisfaction?

20. YouGov and Legal Ombudsman research has shown that many verbal complaints go unrecorded. However, 83% of those surveyed expected their legal adviser to act on their expression of dissatisfaction. In fact, it was found that clients who complain verbally (only) are more likely to want a simple explanation or apology rather than to invoke a formal complaints procedure.
21. You should therefore respond to a verbal expression of dissatisfaction by acknowledging the issue and asking the complainant what they are looking for to resolve their concerns. It will usually be appropriate to respond in writing and include an explanation and apology. You should also remind the complainant of your formal complaints procedure, should they wish to take the matter further.

What action must I take on receiving a complaint?

22. The investigator of a complaint should:
 - acknowledge receipt of the complaint in writing;
 - investigate thoroughly and promptly;
 - record their management of the complaint and their findings;
 - keep their investigation file separate from the main client file;
 - advise the Costs Lawyer of the outcome of the investigation;
 - ensure the complainant is advised in writing of the outcome of the investigation within eight weeks of receipt of the complaint;
 - ensure any remedial action is followed through.
23. Any decision made in the context of investigating a complaint should be impartial and based on the evidence, without bias or prejudice.
24. Complainants should always be informed in writing once you feel your first-tier complaints procedure has been exhausted.

What remedies should be considered?

25. If appropriate following an investigation, one or more remedies should be offered to the complainant. There are numerous remedies that could be considered, including an apology, an explanation of what went wrong, financial compensation, repeat provision of the relevant service, and remedial steps to reduce the impact on the complainant. The investigator should consider all appropriate remedies, even if they were not expressly sought by the complainant.
26. An investigation may also identify areas in which service could be improved. If so, ways of working should be revised to avoid further poor outcomes in the future.

Can I charge for complaint resolution?

27. The Legal Services Board has issued guidance on section 112 of the Legal Services Act 2007 stating that complaint resolution should be free of charge. The CLSB would not expect a Costs Lawyer to charge for complaint resolution in relation to the Costs Lawyer's own service provision.

Second-tier complaints

What is the role of the Legal Ombudsman?

28. The Legal Ombudsman deals with service complaints about Costs Lawyers in an independent and objective way. The Legal Ombudsman can award a variety of remedies, including financial compensation. A complainant can accept the Legal Ombudsman's determination, in which case it is binding on the Costs Lawyer. However, the complainant does not have to accept the determination and can pursue redress via other means (including the courts).
29. Before the Legal Ombudsman will consider a service complaint, the Costs Lawyer must first have tried to resolve the complaint themselves under their first-tier complaints procedure. Should a service complaint be referred to the Legal

Ombudsman, they will look not only at the substance of the complaint but also the way in which the complaint was initially dealt with by the Costs Lawyer.

What is the role of the CLSB?

30. The CLSB deals with conduct complaints about Costs Lawyers in accordance with its prevailing Disciplinary Rules and Procedures. The Costs Lawyer should first try to resolve the complaint themselves under their first-tier complaints procedure.
31. If a Costs Lawyer does not have a complaints procedure, does not follow their complaints procedure, or otherwise deals poorly with a complaint, this may give rise to a conduct issue in itself regardless of the nature of the underlying complaint.

When is the Legal Ombudsman or CLSB notified of a complaint?

32. There is no requirement for you to notify the Legal Ombudsman or CLSB upon initially receiving a complaint under your complaints procedure. It is anticipated that complaints will be satisfactorily resolved at that level. It is for the complainant to refer the matter to either the Legal Ombudsman or CLSB in the event they are not happy with the outcome or the matter has not been resolved within eight weeks. The CLSB will, however, ask Costs Lawyers to report data about first-tier complaints annually for supervision purposes.
33. Where a complaint is not resolved by the Costs Lawyer, it is for the complainant to identify whether they have a service complaint (for the Legal Ombudsman) or a conduct complaint (for the CLSB). However, should the CLSB receive a complaint that is not in its jurisdiction it may refer the matter to the Legal Ombudsman, and vice versa. If a complaint involves a mix of service and conduct issues, the Legal Ombudsman will usually consider the complaint in the first instance.

What are the timescales for second-tier complaints?

34. Second-tier service complaints to the Legal Ombudsman must ordinarily be made within six months of the date of the Costs Lawyer's final response, and not 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.

35. Second-tier conduct complaints to the CLSB must ordinarily be made within 12 months of the date on which the matters giving rise to the complaint occurred or the date on which the complainant first became aware that they had grounds for the complaint. This period can be extended in exceptional circumstances so you should encourage complainants to act promptly, but should not imply there are no circumstances in which the CLSB will consider a complaint outside the timescale of 12 months.

Do I need to use an approved ADR body as well as the Legal Ombudsman?

36. Under the Alternative Dispute Resolution for Consumer Disputes (Competent Authorities and Information) Regulations 2015 (the ADR Regulations), you should inform consumers about their ability to escalate their complaint to an approved alternative dispute resolution (ADR) body upon exhaustion of your first-tier complaints process. The Legal Ombudsman is not currently an approved ADR body for these purposes. A list of approved ADR bodies can be found on the Trading Standards website.

37. Despite the requirement to provide this information, you do not have to agree to engage with the ADR processes of an approved ADR body. You should therefore inform consumers of the name and website address of an approved ADR body that would be competent to deal with the complaint and state whether you agree to use the ADR scheme operated by that body.

38. Under Regulation 3 of the ADR Regulations, a consumer is defined as “an individual acting for purposes which are wholly or mainly outside that individual’s trade, business, craft or profession”. If you do not provide or promote services to consumers of this kind, you do not have to use an approved ADR body.

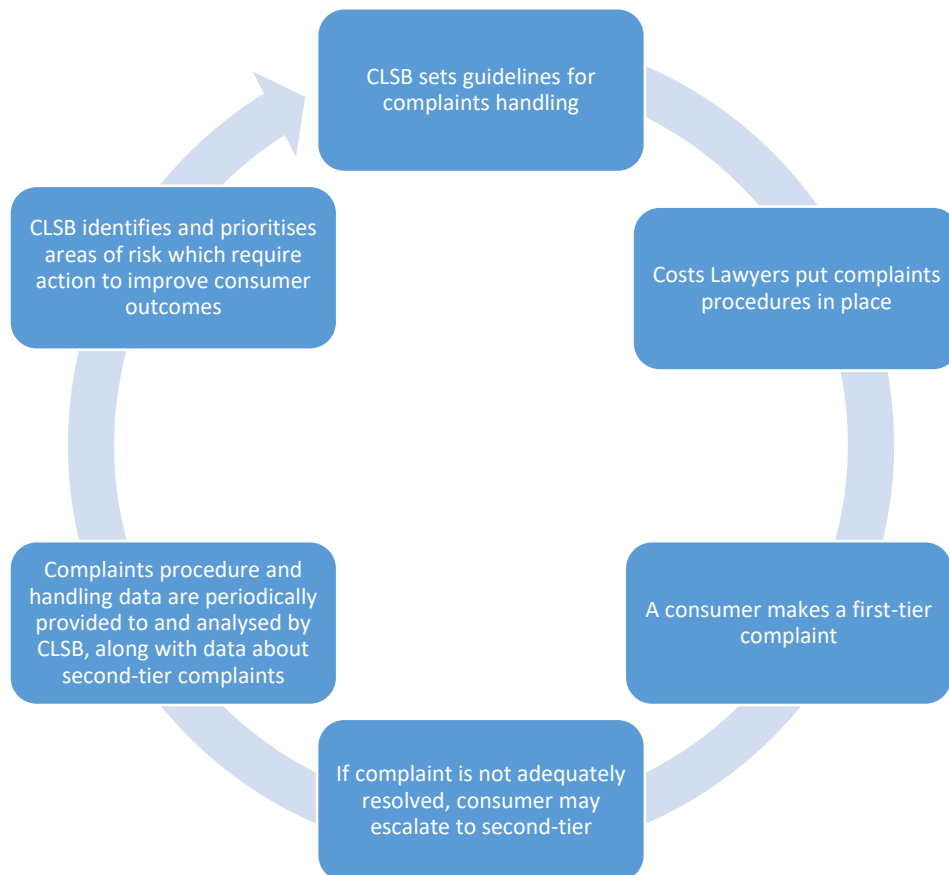
Supervision by the CLSB

Do I need to lodge my complaints procedure with the CLSB?

39. Yes. Since 2012, all Costs Lawyers have been required to file their complaints procedure with their annual application for a practising certificate. This allows the CLSB to supervise compliance with the obligation to maintain an appropriate complaints procedure.

How does the CLSB use data about complaints?

40. The CLSB collates information about the volume and type of complaints dealt with by individual Costs Lawyers, along with Costs Lawyers' complaints procedures, data sourced from the Legal Ombudsman and data about complaints to the CLSB. The complaints data loop below shows how this information informs the risk assessment process, enabling the CLSB to target its regulatory interventions in areas where consumer outcomes can most effectively be improved.



How can my complaint data assist me as a Costs Lawyer?

41. Analysis of the number of complaints, the nature of complaints and their outcomes will assist you in improving the effectiveness of the service you offer to your clients. Consider taking further steps to better understand your clients' expectations, such as collecting feedback throughout a matter and at its conclusion.

Annex – Model complaints procedure

Date: [X]

Version: [X]

How we handle formal complaints

We pride ourselves on providing an excellent service, but even in the best run businesses, mistakes, delays and misunderstandings can happen.

If something has gone wrong, please tell us about it so we can put things right and improve what we do in the future.

Please tell us about any problems as soon as they arise, so we have the best chance of fixing them.

You should not feel obliged to use this formal complaints procedure – you may tell us about a problem informally and we will do our best to put things right – but if you do find yourself in the position of wishing to raise a formal complaint with us then please follow the steps below.

We will never charge you for the time it takes us to handle your complaint.

How to complain

You can make a complaint either in writing or by telephone by contacting the following people:

By telephone: [Name], [Number]

In writing: [Name], [Address], [Email]

Please tell us who or what the complaint is about and when the problem happened or when the problem started if it is still ongoing, and how you would like us to communicate with you (by telephone, letter or email).

What happens next

We will acknowledge your complaint in writing. We will try to do this within [X] business days.

We will look into the details of your complaint and consider what we need to do to put things right, which might include:

- explaining what we think happened;
- apologising to you;
- repeating work, or parts of work, we did for you;
- reviewing our procedures so we do not repeat a mistake;
- reducing our fees;
- compensating you for any loss we have caused you to suffer.

Once we have investigated your complaint we will reply to you. We will do this within eight weeks of when you first complained to us. If you have asked us to contact you by telephone we will do so but we will also write to you.

The Legal Ombudsman

If we have been unable to put things right, or we have not resolved your complaint within eight weeks, then you can have the complaint independently looked at by the Legal Ombudsman. The Legal Ombudsman investigates problems about poor service from lawyers.

Before accepting a complaint for investigation the Legal Ombudsman will check that you have tried to resolve your complaint with us first. If you have, then you must take your complaint to the Legal Ombudsman within six months of our final response, and not later than:

- one year from the date of the act or omission you are complaining about; or
- one year from the date when you should have realised that there was cause for complaint.

The Legal Ombudsman can be contacted using the following details:

Address: PO Box 6167, Slough SL1 0EH
Telephone: 0300 555 0333
Email: enquiries@legalombudsman.org.uk
Website: www.legalombudsman.org.uk

[Include this paragraph if you provide services to consumers (see paragraphs 36 to 38 of the Guidance Note).] There are other alternative dispute resolution schemes that exist, such as [give the name of an approved ADR body] should both we and you wish to use such a scheme. Generally, we [do/do not] choose to use these schemes.

The Costs Lawyer Standards Board (CLSB)

Individual Costs Lawyers who work for us are regulated by the CLSB and the CLSB can investigate complaints about those Costs Lawyers' professional conduct. If you wish to complain about a Costs Lawyer's conduct, you should contact the CLSB promptly.

The CLSB will consider complaints made within 12 months of the date on which the matters giving rise to the complaint occurred or the date on which the complainant first became aware that they had grounds for the complaint. This period can be extended in exceptional circumstances. The CLSB will usually expect you to give us a chance to resolve your complaint first.

The CLSB can be contacted using the following details:

Address: PO Box 4336, Manchester, M61 0BW
Telephone: 0161 956 8969
Email: enquiries@clsb.info
Website: www.clsb.info