

CURRENT GUIDANCE

First Tier Complaints Handling Guidance

1. This guidance supplements Section D1.1 of the Code of Conduct in the BSB Handbook.

It covers three areas:

- a. the scope of chambers complaints handling
- b. the obligation to notify clients of their right to complain
- c. guidance to chambers in developing chambers complaints procedures

2. The key outcomes of Section D1.1 of the Code of Conduct in the BSB Handbook are (1) clients are provided with appropriate information about redress, should know that they can make a complaint if dissatisfied, and know how to do so, and (2) complaints should be dealt with promptly and the client kept informed about the process. References to "client" in the BSB Handbook and this guidance are to the lay client.

A. Scope of chambers complaints handling

3. Complaints are expressions of dissatisfaction by clients. This guidance draws a distinction between complaints that relate to service, professional negligence and misconduct. A single complaint may have elements of all three and the obligations on chambers are different for each aspect.

Service complaints

4. The requirements set out in Section D1.1 of the Code of Conduct relate to the handling of service complaints which are within the jurisdiction of the Legal Ombudsman.

5. Chapter 2 of the Legal Ombudsman's scheme rules set out the types of complaint that are within its jurisdiction. These are complaints that relate to an act or omission by an authorised person in relation to services provided to the complainant (directly or indirectly).

6. In addition, the Legal Ombudsman's website sets out a list of the categories of complaint which it investigates. These include the following categories (some of which may also include aspects of negligence or misconduct):

- Costs excessive
- Costs information deficient
- Data protection/breach of confidentiality
- Delay/failure to progress
- Discrimination
- Failure to advise
- Failure to follow instructions
- Failure to investigate complaint internally
- Failure to keep complainant informed of progress
- Failure to keep papers safe

Misconduct and professional negligence

7. Chambers may not be best placed to seek to resolve or provide redress for complaints which relate to misconduct or professional negligence, and there is no positive obligation to investigate matters of misconduct.

8. However, it is likely that in many cases a complaint which raises issues relating to professional misconduct or professional negligence will also amount to an accusation of the provision of poor service or will include a service element. Where this is the case, the service issues should be dealt with in accordance with Section D1.1 of the Code of Conduct. It is not acceptable for chambers not to investigate elements of a complaint which relate to service because the complaint also amounts to, or includes elements which relate to, misconduct or could potentially give rise to a negligence claim.

9. Complainants should be informed in writing if any aspects of their complaint are deemed to be outside of chambers complaints handling procedures. This should include information on how to complain to the Legal Ombudsman.

Barristers are also reminded that they must report promptly to the BSB if they have committed serious misconduct. In addition, subject to their duty to keep the affairs of each client confidential, barristers must report to the BSB if they have reasonable grounds to believe that there has been serious misconduct by another barrister. The relevant provisions of the BSB Handbook are Rules C65 – C69 and Guidance C95 – C102. Guidance C96 in particular provides examples of what serious misconduct includes without being exhaustive. Further guidance on reporting serious misconduct of others is also available on the BSB's website.

Bar Mutual Indemnity Fund

10. Where a complaint raises an allegation of negligence it may be appropriate to inform BMIF and to consult them before any proposals for resolution are made to the client.

Non-client complaints

11. The Legal Ombudsman will only deal with complaints from consumers of lawyers' services. This means that only complaints from the barrister's clients fall within the Ombudsman's jurisdiction. This does not mean that non-client complaints should not be investigated by chambers. Some non-client complaints, such as discourtesy, may be capable of resolution by chambers. However, the BSB recognises that chambers' ability to resolve many kinds of non-client complaints is limited and that they are more suited to consideration under the disciplinary processes of the BSB. Accordingly, if chambers feel that the issues raised by non-clients cannot be satisfactorily resolved through the chambers complaints process they should refer the complainant to the BSB.

B. Notifying the client of the right to complain

11. Barristers must notify clients in writing at the time of engagement or if not practicable at the next appropriate opportunity:

(a) Of their right to make a complaint, how and to whom this can be done, including their right to complain to the Legal Ombudsman at the conclusion of the complaints process, the timeframe for doing so and the full details of how to contact the Legal Ombudsman;

(b) That the lay client may complain directly to chambers without going through solicitors; and

(c) Of the name and web address of an approved alternative dispute resolution (ADR) body which can deal with any complaint in the event that: the barrister is unable to resolve the complaint through their complaints process, *and* both the barrister and the client agree to use the scheme. The barrister is therefore not required to use ADR, and is only required to inform the client of the option. This is a requirement under the Alternative Dispute Resolution for Consumer Disputes (Amendment) Regulations 2015.

12. At the conclusion of the complaints process, complainants must be informed in writing of their right to complain to the Legal Ombudsman (which has responsibility for dealing with all service complaints against legal professionals), the timeframe for doing so and the full details of how to contact them.

13. The barrister must also notify the client in the same letter of the name and web address of an ADR body which would be competent to deal with the complaint. However, it should be noted that neither the barrister nor the client is required to use ADR. The only

requirement is for the barrister to inform the client of the option, and the client retains their right to complain to the Legal Ombudsman provided they fall within their jurisdiction.

14. The Chartered Trading Standards Institute (CTSI) approves ADR entities which are able to provide mediation services. At the time of writing, barristers can use ProMediate or Small Claims Mediation, and they should consider which provider may be the most appropriate for them and the client. Barristers should also be aware that the time limit for contacting an ADR approved body will likely be different to the time limit for contacting the Legal Ombudsman, and they should make the client aware of the time limit in the letter. If the barrister and the client use mediation, neither party is required to accept the proposed resolution. If mediation does not resolve the complaint, the client may still make a complaint to the Legal Ombudsman (provided they fall within their jurisdiction and they do so within the time limit).

At the time of writing the CTSI has not approved any ADR entities which are able to provide arbitration services. If the barrister and the client use a separate arbitration scheme, the outcome will be legally binding and the parties will need to agree to this. In itself, this does not prevent the client from then making a complaint to the Legal Ombudsman. However, the Legal Ombudsman reserves the right to dismiss any complaint if it feels that a comparable independent complaints (or costs-assessment) scheme has already dealt with the same issue satisfactorily.

Complaints to chambers

15. The Legal Services Board (LSB) have specified a requirement to which the BSB is obliged to give effect under s112(2) of the Legal Services Act 2007. The requirement relates to "first-tier" complaints which, so far as self-employed barristers are concerned, relate to the procedure whereby a client makes a complaint to chambers in the first instance.

16. The LSB seeks to ensure consumers have confidence that:

(a) complaints handling procedures provide effective safeguards for them; and

(b) complaints will be dealt with comprehensively and swiftly, with appropriate redress where necessary.

17. Chambers complaint handling processes must be convenient and easy to use (in particular for those that are vulnerable or have disabilities). They should make provision for complaints to be made by any reasonable means. The way in which complaints are dealt with must be transparent and clear in relation to process, well publicised and free. The process itself should be prompt and fair, with decisions based on a sufficient investigation of the circumstances. Where appropriate, there should be an offer of a suitable remedy.

18. Most consumers will be able to make a complaint to the Legal Ombudsman about the services they received after the chambers complaints processes has concluded. Sufficient information must be provided to all clients to identify whether they do have a right to take their complaint to the Legal Ombudsman, and to contact the Legal Ombudsman direct to clarify whether they can (clients will also need to be informed about ADR – see paragraph 13 above).

19. Please note that the Legal Ombudsman, the independent complaints body for service complaints about lawyers, has time limits in which a complaint must be raised with them.

The time limits are:

a) The act or omission, or when the complainant should reasonably have known there was cause for complaint, must have been after 5 October 2010; and

b) The complainant must refer the complaint to the Legal Ombudsman no later than six years from the act/omission, or three years from when the complainant should reasonably have known there was cause for complaint.

c) The complainant must also refer the complaint to the Legal Ombudsman within six months of the complaint receiving a final response from their lawyer, if that response complies with the requirements in rule 4.4 of the Scheme Rules (which requires the response to include prominently an explanation that the Legal Ombudsman was available if the complainant remained dissatisfied, and the provision of full contact details for the Ombudsman and a warning that the complaint must be referred to them within six months).

20. Chambers must have regard to that timeframe when deciding whether they are able to investigate a complaint. Chambers will not therefore usually deal with complaints that fall outside of the Legal Ombudsman's time limits. The Ombudsman can extend the time limit in exceptional circumstances.

21. Clients who have, or may have, a right to complain to the Legal Ombudsman¹ must at the conclusion of the complaint process be informed of their right to complain to the Legal Ombudsman, the timeframe for doing so and full details of how to contact the Legal Ombudsman (clients will also need to be informed about ADR – see paragraph 13 above).

22. Where a barrister accepts instructions from a new client, or instructions on a new matter from an existing client, the client must be notified of the right to make a complaint, how and to whom this can be done. It is essential that systems be set up by chambers to ensure that these requirements are properly complied with. This will be straightforward for Public

¹ Those clients who are able to complain to the Legal Ombudsman are as follows:

- a) Individuals;
- b) Businesses or enterprises that are micro-enterprises within the meaning of Article 1 and Article 2(1) and (3) of the Annex to Commission Recommendation 2003/361/EC (broadly businesses or enterprises with fewer than 10 employees and turnover or assets not exceeding €2 million);
- c) Charities with an annual income net of tax of less than £1 million;
- d) Clubs, associations or organisations, the affairs of which are managed by its members or a committee of its members, with an annual income net of tax of less than £1 million;
- e) Trustees of trusts with an asset value of less than £1 million; and
- f) Personal representatives or beneficiaries of the estates of persons who, before they died, had not referred the complaint to the Legal Ombudsman.

Access clients, but because self-employed barristers will usually be instructed by a solicitor or other professional client on behalf of the client, procedures must be put in place for notifying other clients.

Compliance with requirements to notify clients

23. The LSB has specified a requirement that the BSB must require all individuals and entities they regulate to notify all clients in writing at the time of engagement, or existing clients at the next appropriate opportunity, of their right to make a complaint, how and to whom this can be done (including their right to complain to the Legal Ombudsman at the conclusion of the complaint process, the timeframe for doing so and full details of how to contact the Legal Ombudsman). Clients will also need to be informed about ADR – see paragraph 11c) above.

24. The BSB is required to enforce the LSB requirement and compliance by chambers. The BSB will, as part of its supervision processes, monitor chambers to ensure that the requirement is being complied with.

25. The guidance below is set out to assist barristers and Chambers in setting up systems to effect compliance with the requirement of the LSB in a way that is neither disproportionate nor onerous.

26. Where the barrister is aware of the contact details for the client, the obligation can be satisfied by a letter or e-mail sent directly to the client (which may be sent by someone else on the barrister's behalf) providing the required information.

27. If the information has not been provided beforehand in writing, it may be provided on the first occasion that the barrister meets the client at court, or in conference.

28. Subject to the points made below, it is not acceptable for barristers simply to make the information available to solicitors. Nor is it sufficient that the information is available on chambers' website. There is a positive obligation on the barrister to provide it to the client.

29. An unequivocal agreement by the professional client to pass on chambers' complaint information to the client, either in a particular case, or in relation to each case in which a member of chambers is instructed by that professional client, will serve to discharge the obligation to provide the client with the information. However, there must be a positive agreement on the part of the professional client: silence is not sufficient. Where chambers receive high volume instructions from a particular professional client it will not be necessary to obtain written confirmation in relation to each instruction. In those circumstances, positive written confirmation should be obtained at regular and reasonable intervals from the professional client that complaints information continues to be passed on to lay clients.

Client information sheets

30. Some barristers may be unhappy at the prospect that the first thing they do when they meet the client is to advise the client how to make a complaint. A "client information sheet" is one way in which the information may be communicated to the client. The information sheet giving details about the barrister as well as information on how to complain could be given to the client by the barrister. Whilst the information sheet carries the necessary information, it also carries helpful information for the client about the barrister and should not give rise to any negative impression. The client information sheet may be sent or handed out to the client; it may also be provided by the clerk or receptionist when the client arrives for a conference.

Compliance

31. It is recognised that there will be circumstances in which, in individual cases, it is impractical to comply strictly with the requirements. What is important is that chambers set

up systems, and establish procedures, to effect compliance with these requirements consistent with this guidance. The precise solutions will differ according to different fields of practice. If this has been done responsibly, then as part of its supervision processes the BSB will regard sympathetically particular difficulties which occur, or are likely to occur, in individual cases.

Cases where the procedure cannot be followed

32. Where the barrister has the contact details of the client, or when the barrister meets the client in the course of the matter, compliance should not in general present a problem.

33. However, there will be areas of practice, and particular cases, where it is not possible or practical for the barrister to satisfy the notification requirement in this way. For example, the barrister may not have the contact details of the client, cannot readily obtain them, and does not anticipate meeting the client in the course of being instructed or at least not for some time.

34. Some common sense is required in setting up procedures so as to fulfil the notification requirements. For example, where a barrister acts for government departments or public bodies it should be possible to agree a standing arrangement with Treasury Solicitors or other in-house lawyers whereby details of the complaints system is provided to the professional client to be passed on to the client body. Most barristers will be able to think of examples within their own field of practice where procedures can be responsibly adopted so as to fulfil the notification requirement.

35. In some cases there will be no realistic alternative to compliance by providing the requisite information to the solicitor or other professional client with instructions to provide that information to the client on behalf of the barrister, even when the solicitor has not expressly agreed to do so. But this course should only be adopted when other better means of compliance are not practical.

C. Chambers complaints procedure: guidance

36. This guidance is provided to chambers to assist them to develop a complaints procedure which is compliant with the mandatory requirements set out at Section D1.1 of the Code of Conduct in the BSB Handbook. Chambers are not obliged to follow the guidance absolutely. If chambers decide not to adopt the model procedure provided at Appendix 1 below, they should have regard to this guidance when devising their own complaints handling arrangements.

37. All barristers must be familiar with the requirements of Section D1.1 of the Code of Conduct in the BSB Handbook, and the requirements of the Alternative Dispute Resolution for Consumer Disputes (Amendment) Regulations 2015 in respect of informing clients about ADR (see paragraphs 11(c) and 13 above).

38. Those barristers who are responsible for dealing with complaints should ensure that they and any staff who deal with complaints are adequately trained. The BSB will monitor chambers complaints handling, including the sufficiency of training, as part of its supervision processes.

39. This annex sets out the contents of an effective procedure. Model complaints procedures are at Appendix 1 (multi member sets of Chambers) and Appendix 2 (sole practitioners). Chambers must ensure that their website and brochure carries information about the chambers complaints procedure.

40. Chambers are not obliged to adopt the model complaints procedures provided below. The model procedures set out good practice arrangements for handling complaints, but the BSB is aware that there are alternative methods which may be just as effective. Chambers have discretion to either devise their own procedure, or to amend the model procedure to best fit their own administrative arrangements or the particular circumstances of a complaint. The only requirements are that Chambers adopts a complaints procedure that

includes the mandatory requirements set out at Section D1.1 of the Code of Conduct in the BSB Handbook, and the requirements of the Alternative Dispute Resolution for Consumer Disputes (Amendment) Regulations 2015 in respect of informing clients about ADR (see paragraphs 11(c) and 13 above)

41. Possible alternatives to the arrangements in the model procedure have been provided where appropriate. These alternatives are not exhaustive but are used to highlight that other procedures may be more suitable for chambers depending on their size, practice type or administrative set up.

Chambers complaints procedure: first stage

42. Where a client is dissatisfied with some aspect of the service provided by a barrister or by chambers they should be invited to telephone an individual nominated under the chambers complaints procedure to deal with complaints; for example, the Chambers Director, Practice Manager or Head of Chambers. In order to ensure consistency of approach, this individual should be the first point of contact for all complaints. The client should also be told that if they prefer they may make the complaint in writing, and the chambers complaints procedure should be sent to them unless it has already been provided.

43. Where a complaint is made by telephone, a note of the complaint should be made. It should record:

- The name and address of the complainant;
- The date of the complaint;
- Against whom the complaint is made;
- The detail of the complaint; and
- What the complainant believes should be done about the complaint.

44. In many cases the complaint will be resolved over the telephone during the first call. When that occurs, the individual nominated to deal with complaints should record the outcome on the note of complaint. The client should be asked whether they are content with the outcome and informed of the Legal Ombudsman's complaints procedure. If they are, that fact will be recorded. The complaints procedure should suggest that the client may wish to make their own note. If the client is not content they should be invited to put the complaint in writing so that it may be investigated formally. At that stage they should be sent a copy of the chambers complaints procedure unless it has already been provided. The client should also be informed of the Legal Ombudsman's complaints procedure.

Chambers complaints procedure: second stage

45. It is recommended that chambers set up a complaints panel made up of experienced practitioners from different practice areas and a senior member of staff. A head of panel should be appointed. There should be a nominated deputy. All complaints (other than those resolved at stage one) should be put before the head of the panel or, in their absence, the deputy. The role of the panel is to appoint from its members an independent person to investigate a complaint and to ensure that all complaints are handled consistently and in accordance with the chambers complaints procedure.

46. It may not be appropriate or possible for a small set of chambers to convene a complaints panel. Chambers are encouraged to set up a complaints panel where possible or otherwise nominate an individual or individuals to investigate the complaint.

47. Sole practitioners may not feel able to investigate independently a complaint raised against them and, if a complaint remains unresolved, should therefore offer for an independent person (for example, a barrister in another chambers) to investigate the complaint. A suggested approach to this is set out in the model procedure for sole practitioners at Appendix 2 below.

48. A complaint received in writing should, where possible, be acknowledged within two days of receipt and, in any event, promptly. Within 14 days of that acknowledgment the head of the panel (where one has been set up) or their deputy should appoint a member of the panel to investigate the complaint. Where the complaint is against a member of staff the person appointed will normally be the senior staff member. Where the complaint is against the senior staff member the head of the panel should appoint another member of the panel to investigate. Where the complaint is against the head of the panel, the Head of Chambers should investigate or, in their discretion, appoint a member of the panel to investigate. Where the Head of Chambers is the head of the panel, the deputy head of the panel should be the appointed person. No barrister should investigate a complaint of which they are the subject. Where no panel has been established, chambers should ensure that the individual or individuals nominated to investigate the complaint are impartial.

49. The appointed person/nominated individual should write to the client as soon as they are appointed. They should inform the client that they are to investigate the complaint and that they will report back to the client within 14 days. If it becomes plain that a response cannot be sent within 14 days a realistic timeframe should be set and the client informed accordingly.

50. The appointed person/nominated individual should investigate the complaint. They should speak to the barrister/member of staff complained against, and any other people they identify as having something to contribute. They should review all relevant documents. If necessary, they should revert to the client for further information and clarification.

51. The appointed person/nominated individual should prepare a report to the client (with a copy to the barrister/member of staff complained against). The report should set out all the matters referred to at paragraph 43 above, the nature and scope of the investigations carried out in respect of each complaint, their conclusions and the basis for their conclusions. The report should be drafted using clear and concise language. Where a

complaint is found to be justified, the report should provide proposals for resolution (e.g. reduction in fees, apology, compensation, etc.).

52. The report should be sent to the client within 14 days of the appointed person's appointment, or such longer period as has been communicated to the client in advance (see paragraph 49). Note that the client will be entitled to take their complaint to the Legal Ombudsman if they do not receive a final response from you within eight weeks of their initial complaint. A copy of the report should also be provided to the barrister/member of staff complained against.

The Legal Ombudsman's website has a number of helpful resources for legal professionals, including how to signpost clients to the Legal Ombudsman, good practice in handling complaints and use of language when responding to complaints:

<http://www.legalombudsman.org.uk/>

Charging for complaints

53. Chambers should not charge clients for dealing with their complaint or using mediation services. To do so brings the Bar into disrepute and could amount to professional misconduct.

Confidentiality

54. All conversations and documents shall be confidential and disclosed only to the extent necessary. They may be disclosed only to the client, the person complained about, the Head of Chambers, the head of the complaints panel or relevant senior member of the panel, the nominated individual, the management committee (for carrying out the task at paragraph 51) and any other individual with whom enquiries need to be made for the purpose of the investigation.

Record keeping

55. Where the procedure ends after the first stage, the person responsible for recording the outcome on the note of complaint should ensure that the note of complaint is placed on the chambers complaints file.

56. Where the procedure ends after the second stage, the head of the panel/nominated individual should ensure that the following documents are placed on the chambers complaints file:

- Note/letter of complaint (see paragraph 43); and
- Appointed person's/nominated individual's report (see paragraph 51).

Review and monitoring

57. The chambers complaints file should be inspected regularly by the management committee. Papers should be anonymised where necessary. The person responsible for the administration of the system should report at least annually to such appropriate committee of chambers on the number of complaints received and the subject area of the complaints. In such a report all the details should be anonymised, but should be reviewed for trends and possible training issues.

58. As part of its supervision processes the BSB will monitor chambers complaints handling including, where appropriate, the sufficiency of training. All barristers must comply promptly with requests for information from the BSB.

October 2019

Bar Standards Board

Appendix 1

The model procedures for chambers and for sole practitioners are based on the suggested arrangements for handling complaints set out in the above guidance. Chambers or sole practitioners may decide to adopt the model procedure but are free to develop their own procedure or set of rules for dealing with complaints. Chambers must ensure that any procedure they develop is compliant with the mandatory requirements set out at Section D1.1 of the Code of Conduct in the BSB Handbook, and the requirements of the Alternative Dispute Resolution for Consumer Disputes (Amendment) Regulations 2015 in respect of informing clients about ADR.

Model chambers complaints procedure for multi-member sets

1. Our aim is to give you a good service at all times. However, if you have a complaint you are invited to let us know as soon as possible. It is not necessary to involve solicitors in order to make your complaint, but you are free to do so should you wish.

2. Please note that the Legal Ombudsman, the independent complaints body for service complaints about lawyers, has time limits in which a complaint must be raised with them.

The time limits are:

a) The act or omission, or when the complainant should reasonably have known there was cause for complaint, must have been after 5 October 2010; and

b) The complainant must refer the complaint to the Legal Ombudsman no later than six years from the act/omission, or three years from when the complainant should reasonably have known there was cause for complaint.

c) The complainant must also refer the complaint to the Legal Ombudsman within six months of the complaint receiving a final response from their lawyer, if that response

complies with the requirements in rule 4.4 of the Scheme Rules (which requires the response to include prominently an explanation that the Legal Ombudsman was available if the complainant remained dissatisfied, and the provision of full contact details for the Ombudsman and a warning that the complaint must be referred to them within six months).

3. Chambers must have regard to that timeframe when deciding whether they are able to investigate your complaint. Chambers will not therefore usually deal with complaints that fall outside of the Legal Ombudsman's time limits. The Ombudsman can extend the time limit in exceptional circumstances.

4. The Ombudsman will also only deal with complaints from consumers. This means that only complaints from the barrister's client are within their jurisdiction. Non-clients who are not satisfied with the outcome of the Chambers' investigation should contact the BSB rather than the Legal Ombudsman.

5. It should be noted that it may not always be possible to investigate a complaint brought by a non-client. This is because the ability of chambers to satisfactorily investigate and resolve such matters is limited and complaints of this nature are often better suited to the disciplinary processes maintained by the BSB. Therefore, chambers will make an initial assessment of the complaint and if they feel that the issues raised cannot be satisfactorily resolved through the chambers complaints process they will refer you to the BSB.

Complaints made by telephone

6. You may wish to make a complaint in writing and, if so, please follow the procedure in paragraph 8 below. However, if you would rather speak on the telephone about your complaint, then please telephone the individual nominated under the chambers complaints procedure to deal with complaints [NAME] or (if the complaint is about a member of staff) the [senior member of staff - NAME]. If the complaint is about the [senior member of staff]

telephone [the Head of Chambers - NAME or other member of Chambers appointed by head]. The person you contact will make a note of the details of your complaint and what you would like to have done about it. They will discuss your concerns with you and aim to resolve them. If the matter is resolved they will record the outcome, check that you are satisfied with the outcome and record that you are satisfied. You may also wish to record the outcome of the telephone discussion in writing.

7. If your complaint is not resolved on the telephone you will be invited to write to us about it, so it can be investigated formally.

Complaints Made in Writing

8. Please give the following details:

- Your name and address;
- Which member(s) of chambers you are complaining about;
- The detail of the complaint; and
- What you would like done about it.

9. Please address your letter to [name of preferred recipient and chambers' address]. We will, where possible, acknowledge receipt of your complaint within two days and provide you with details of how your complaint will be dealt with.

10. Our chambers has a panel headed by [name] and made up of experienced members of chambers and a senior member of staff, which considers any written complaint. Within 14 days of your letter being received the head of the panel (or their deputy in their absence) will appoint a member of the panel to investigate it. If your complaint is against the head of the panel, the next most senior member of the panel will investigate it. In any case, the person appointed will be someone other than the person you are complaining about.

11. The person appointed to investigate will write to you as soon as possible to let you know they have been appointed and that they will reply to your complaint within 14 days. If they find later that they are not going to be able to reply within 14 days they will set a new date for their reply and inform you. Their reply will set out:

- The nature and scope of their investigation;
- Their conclusion on each complaint and the basis for their conclusion; and
- If they find that you are justified in your complaint, their proposals for resolving the complaint.

Confidentiality

12. All conversations and documents relating to the complaint will be treated as confidential and will be disclosed only to the extent that is necessary. Disclosure will be to the Head of Chambers, members of our management committee and to anyone involved in the complaint and its investigation. Such people will include the barrister member or staff who you have complained about, the head or relevant senior member of the panel and the person who investigates the complaint. The BSB is entitled to inspect the documents and seek information about the complaint when discharging its monitoring functions.

Our policy

13. As part of our commitment to client care we make a written record of any complaint and retain all documents and correspondence generated by the complaint for a period of six years. Our management committee inspects an anonymised record regularly with a view to improving services.

Complaints to the Legal Ombudsman/alternative dispute resolution

14. If you are unhappy with the outcome of our investigation and you fall within their jurisdiction you may take up your complaint with the Legal Ombudsman, the independent complaints body for complaints about lawyers, at the conclusion of our consideration of your complaint. The Ombudsman is not able to consider your complaint until it has first been investigated by chambers. Please note the timeframe for referral of complaints to the Ombudsman as set out at paragraph 2 above. Those clients who are able to complain to the Legal Ombudsman are as follows:

- a) Individuals;*
- b) Businesses or enterprises that are micro-enterprises within the meaning of Article 1 and Article 2(1) and (3) of the Annex to Commission Recommendation 2003/361/EC (broadly businesses or enterprises with fewer than 10 employees and turnover or assets not exceeding €2 million);*
- c) Charities with an annual income net of tax of less than £1 million;*
- d) Clubs, associations or organisations, the affairs of which are managed by its members or a committee of its members, with an annual income net of tax of less than £1 million;*
- e) Trustees of trusts with an asset value of less than £1 million; and*
- f) Personal representatives or beneficiaries of the estates of persons who, before they died, had not referred the complaint to the Legal Ombudsman.*

You can write to the Legal Ombudsman at:

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

Telephone number: 0300 555 0333

Email: enquiries@legalombudsman.org.uk

More information about the Legal Ombudsman is available on their website:

<http://www.legalombudsman.org.uk/>

If you are unhappy with the outcome of the investigation, alternative complaints bodies (such as [include one of the following: ProMediate and Small Claims Mediation and the website]) also exist which are competent to deal with complaints about legal services, should you and the barrister both wish to use such a scheme. If you wish to use [include one of the above], please contact us to discuss this. Please also note that: (1) the time limit for contacting [include one of the above] is [insert time limit], and (2) if mediation is used, neither you nor the barrister is required to accept the proposed resolution. If mediation does not resolve the complaint, you may still make a complaint to the Legal Ombudsman (provided you fall within their jurisdiction and you do so within the time limit).

15. If you are not the barrister's client and are unhappy with the outcome of our investigation then please contact the Bar Standards Board at:

Bar Standards Board
Contact and Assessment Team
289-293 High Holborn
London
WC1V 7JZ

Telephone number: 0207 6111 444

Website: www.barstandardsboard.org.uk

Appendix 2

Model complaints procedure - sole practitioners

1. My aim is to give all my clients a good service at all times. However, if you have a complaint please let me know as soon as possible, by telephone or in writing. I will treat your complaint as confidential although I may discuss it with other barristers or officials from the Bar Standards Board as part of their monitoring functions. I will not reveal your name to others unless I appoint an independent person to investigate a complaint or set up mediation. I will deal with your complaint promptly.

2. Please note that the Legal Ombudsman, the independent complaints body for service complaints about lawyers, has time limits in which a complaint must be raised with them. The time limits are:

- a) The act or omission, or when the complainant should reasonably have known there was cause for complaint, must have been after 5 October 2010; and
- b) The complainant must refer the complaint to the Legal Ombudsman no later than six years from the act/omission, or three years from when the complainant should reasonably have known there was cause for complaint.
- c) The complainant must also refer the complaint to the Legal Ombudsman within six months of the complaint receiving a final response from their lawyer, if that response complies with the requirements in rule 4.4 of the Scheme Rules (which requires the response to include prominently an explanation that the Legal Ombudsman was available if the complainant remained dissatisfied, and the provision of full contact details for the Ombudsman and a warning that the complaint must be referred to them within six months).

3. Chambers must have regard to that timeframe when deciding whether they are able to investigate your complaint. Chambers will not therefore usually deal with complaints that fall

outside of the Legal Ombudsman's time limits. The Ombudsman can extend the time limit in exceptional circumstances.

4. The Ombudsman will also only deal with complaints from consumers. This means that only complaints from the barrister's client are within their jurisdiction. Non-clients who are not satisfied with the outcome of the investigation should contact the Bar Standards Board rather than the Legal Ombudsman.

5. It should be noted that it may not always be possible to investigate a complaint brought by a non-client. This is because my ability to satisfactorily investigate and resolve such matters is limited and complaints of this nature are often better suited to the disciplinary processes maintained by the Bar Standards Board. Therefore, I will make an initial assessment of the complaint and if I feel that the issues raised cannot be satisfactorily resolved through my complaints process I will refer you to the Bar Standards Board.

Complaints made by telephone

6. If you wish to make a complaint by telephone, I will make a note of the details of your complaint and what you would like done about it. I will endeavour to resolve matters with you on the telephone. If after discussion you are satisfied with the outcome I will make a note of the outcome and the fact that you are satisfied. If you are not satisfied you may wish to make a written complaint.

Complaints made in writing

7. If you wish to make a written complaint please give me the following details:

- Your name, telephone number and address;
- The detail of your complaint; and
- What you would like done about it.

Procedure for dealing with your complaint

8. There are a number of ways in which your complaint may be dealt with:

- (a) Discussion over the telephone;
- (b) Dealt with by correspondence;
- (c) Discussion at a meeting between us;
- (d) The appointment of an independent person to investigate the complaint.

9. If we decide to appoint an independent person to investigate the complaint (for example, a barrister in another chambers), we both would need to agree who to appoint. An independent person who has considerable experience in the area that is the subject matter of the dispute should be chosen.

10. Upon receipt of a written complaint I will:

(a) Reply in writing, normally within 48 hours, to acknowledge the complaint and inform you how I shall be dealing with it.

(b) Reply within 14 days responding in full to your complaint. I will offer you the opportunity to meet with you if that is appropriate. If I find later that I am not going to be able to reply within 14 days I will set a new date for my reply and inform you. My reply will set out:

- The nature and scope of my investigation;
- My conclusion on each complaint and the basis for my conclusion; and
- If I find that you are justified in your complaint, my proposals for resolving the complaint.

11. If you are not happy with my final written response and you fall within their jurisdiction, you may make a formal complaint to the Legal Ombudsman, the independent complaints handling body for complaints about lawyers. Please note the timeframe for referral of complaints to the Ombudsman as set out at paragraph 2 above. Those clients who are able to complain to the Legal Ombudsman are as follows:

- a) Individuals;*
- b) Businesses or enterprises that are micro-enterprises within the meaning of Article 1 and Article 2(1) and (3) of the Annex to Commission Recommendation 2003/361/EC (broadly businesses or enterprises with fewer than 10 employees and turnover or assets not exceeding €2 million);*
- c) Charities with an annual income net of tax of less than £1 million;*
- d) Clubs, associations or organisations, the affairs of which are managed by its members or a committee of its members, with an annual income net of tax of less than £1 million;*
- e) Trustees of trusts with an asset value of less than £1 million; and*
- f) Personal representatives or beneficiaries of the estates of persons who, before they died, had not referred the complaint to the Legal Ombudsman.*

You can write to the Legal Ombudsman at:

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

Telephone number: 0300 555 0333

Email: enquiries@legalombudsman.org.uk

More information about the Legal Ombudsman is available on their website:

<http://www.legalombudsman.org.uk/>

If you are unhappy with my final written response, alternative complaints bodies (such as [include one of the following: ProMediate and Small Claims Mediation and the website]) also exist which are competent to deal with complaints about legal services, should we both wish to use such a scheme. If you wish to use [include one of the above], please contact me to discuss this. Please also note that: (1) the time limit for contacting [include one of the above] is [insert time limit], and (2) if we use mediation, neither you nor I am required to accept the proposed resolution. If mediation does not resolve the complaint, you may still make a complaint to the Legal Ombudsman (provided you fall within their jurisdiction and you do so within the time limit).

12. If you are not my client and are unhappy with the outcome of our investigation then please contact the Bar Standards Board at:

Bar Standards Board
Contact and Assessment Team
289-293 High Holborn
London
WC1V 7JZ

Telephone number: 0207 6111 444

Website: www.barstandardsboard.org.uk

13. I will maintain confidentiality at all times and discuss your complaint only to the extent that is necessary for its resolution and to comply with requests for information from the Bar Standards Board discharging its monitoring functions.

14. I will retain all correspondence and other documents generated in the course of your complaint for a period of six years and I will review complaints at least once a year to ensure that I maintain good standards of service.