

Five Paper External Complaints Procedure

Approved at the Chambers Meeting on 18 March 2021

Preamble

1. The aim of Five Paper (“Chambers”) is to give you a good service at all times. However if you have a complaint against a barrister in chambers or a member of staff you are invited to let us know as soon as possible, and we will send you a copy of this Procedure. It is not necessary to involve solicitors in order to make your complaint but you are free to do so should you wish.



Time limits for complaints

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) Six years from the date of the act/omission;
 - (b) Three years from the date that the complainant should reasonably have known there were grounds for complaint (if the act/omission took place before the 6 October 2010 or was more than six years ago);
 - (c) Within six months of the complainant receiving a final response from Chambers, if that response complies with the requirements in rule 4.4 of the Legal Ombudsman Scheme Rules (which requires the response to include prominently an explanation that recourse to the Legal Ombudsman was available if the complainant remained dissatisfied and the provision of full contact details for the Legal Ombudsman and a warning that the complaint must be referred to them within six months)
3. The Legal Ombudsman can extend the time limit in exceptional circumstances. Chambers must therefore have regard to that time frame when deciding whether they are able to investigate your complaint, and will usually decline to deal with complaints that fall outside the Legal Ombudsman's time limits.
4. The Legal 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 Bar

Standards Board rather than the Legal Ombudsman (see further as to this the concluding two paragraphs of this procedure).

5. It should be noted that it may not always be possible for Chambers to investigate a complaint brought by a non-client. This is because the ability of Chambers to investigate satisfactorily 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, Chambers will make an initial assessment of the complaint and if it feels that the issues raised cannot be satisfactorily resolved through the Chambers complaints process they will refer you to the Bar Standards Board.

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 in the first instance Chambers' Senior Clerk, David Portch, and tell him who your complaint is against, what it is about and what you believe should be done about it. He will make a note of your name, address and telephone number and of what you tell him, and seek to resolve your complaint with you there and then. If the matter is resolved, the outcome will be recorded, you will be asked to confirm that you are satisfied with the outcome and a record will be made that you are satisfied. You may also wish to record the outcome of the telephone discussion in writing yourself.
7. If your complaint is not resolved informally as above, you will be invited to write to us about it so that it can be investigated formally.

Complaints made in Writing

8. Please give the following details:
 - Your name and address;
 - Which member(s) of Chambers or Chambers' staff you are complaining about;
 - The detail of the complaint; and
 - What you believe should be done about it.

9. Please address your letter to the Chair of the Chambers Complaints Panel at 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 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 Chair of the Panel or his deputy in his absence will appoint a member of the panel to investigate it. If your complaint is against the Chair 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 ("the investigator") will write to you as soon as possible to let you know he has been appointed and that he will reply to your complaint within 14 days if possible. If however he concludes then or finds later that he is not going to be able to reply within 14 days, he will set a different date for his reply and inform you of that date and of the reasons for the delay. In the course of his investigation the investigator will speak to the barrister or member of staff against whom you have complained, and any other people he identifies as having something to contribute. He will also review all relevant documents and if necessary will revert to you for further information and/or clarification. His report at the end of that process, which will be sent to both you and the barrister or member of staff complained against, will set out:
 - the nature and scope of his investigation;
 - his conclusion on each complaint and the basis in each case for his conclusion; and
 - if he finds that you are justified in your complaint, his proposals for resolving the complaint.

Powers

12. The investigator shall have power to adopt any of the measures listed below, namely.
 - (a) the dismissal of the complaint;
 - (b) a decision that no action will be taken on the complaint;
 - (c) a requirement that the barrister or member of staff complained about, should write a letter of apology or explanation to the complainant;
 - (d) a decision that the Head of Chambers or Senior Clerk should write a letter of apology and/or explanation to the complainant;

- (e) a requirement that the barrister complained of should waive or repay a professional fee or part thereof;
- (f) a requirement that the barrister complained about pay compensation to the complainant limited to £750;
- (g) a requirement that the barrister or member of staff should attend an interview with the Head of Chambers for discussion about the matters raised by the complaint and/or to be rebuked by the Head of Chambers);
- (h) a recommendation that Chambers consider the expulsion of the barrister;
- (i) if the complaint is about a member of staff, a decision to implement the Chambers Staff Disciplinary Procedure;
- (j) a decision to refer the conduct of the barrister to the Bar Standards Board.

The powers in para 12 (e), (f), (h), (i) and/ or (j) may only be imposed where the measure is approved by the Chair (or, in his absence, deputy) of the Panel. You will be informed of the investigator's decision as soon as practicable, and in any event not more than seven days after the decision.

Appeal by Barrister

13. In the event of the imposition of one of the measures in Para 12 (e), (f) or (h) the Barrister concerned may appeal to a person to be nominated by the Chair of the Bar for the time being. Such an appeal is to be brought by notice in writing to the Chair of the Panel within seven days of notification of the decision complained of. Upon receipt of the notice the Chair of the Panel shall within seven days refer it to the Chair of the Bar with a request that he or she nominate a person to consider the appeal. Upon considering the appeal the nominated person may either (i) dismiss the appeal or (ii) impose any less severe measure.

Bar Mutual Indemnity Fund ("BMIF") and its inter-relation with complaints

14. Any complaint which involves an allegation of negligence or any other possible claim under professional indemnity insurance must be reported forthwith to Bar Mutual Indemnity Fund Ltd by the member of chambers to whom the complaint refers. No proposal to resolve a complaint involving professional negligence under this procedure shall be adopted before the BMIF are consulted.

Confidentiality

15. 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 or member or staff who you have complained against, the Chair of the Panel and of course the person who investigates the complaint. The Bar Standards Board is entitled to inspect the documents and seek information about the complaint when discharging its auditing and monitoring functions.

Our Policy

16. 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 or Bar Standards Board

17. 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 Legal Ombudsman is not able to consider your complaint until it has first been investigated by Chambers. Please note the time-frame for referral of complaints to the Legal Ombudsman as set out at paragraphs 2 and 3 above.

You can write to them at:

Legal Ombudsman
PO Box 6806,
Wolverhampton
WV1 9WJ
Telephone number: 0300 555 0333
Email: enquiries@legalombudsman.org.uk

18. 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
Professional Conduct Department
289-293 High Holborn
London
WC1V 7JZ
Telephone number: 0207 6111 444
Website : www.barstandardsboard.org.uk