

Internal complaints-handling procedures

– legal activities

The purpose of this factsheet is to assist members and firms authorised to carry on a reserved legal activity to handle complaints relating to legal activities appropriately, including the implementation of internal complaints-handling procedures.

This document has no regulatory status. It is issued for guidance purposes only. Nothing contained in this document should be taken as constituting the amendment or adaptation of the *ACCA Rulebook*. In the event of any conflict between the content of this document and the content of the *ACCA Rulebook*, the latter shall at all times take precedence.

Introduction

Firms holding a legal activities certificate are required to implement fair, efficient and effective internal complaints-handling procedures for legal activities complaints which comply with ACCA's Legal Activities Regulations 2018 and the Legal Ombudsman Scheme Rules.

Currently, this guidance applies to the reserved legal activity of probate, and extends to non-contentious probate business only. This factsheet also considers the obligations upon authorised firms after an internal complaints-handling procedure has been exhausted.

Underlying principles

As in any organisation which is people-based, occasional genuine errors or delays will inevitably occur. The principles and procedures set out in this factsheet are concerned with learning from your experiences, and ensuring fair dealing with those with whom firms come into contact.

In respect of all **first-tier complaints** about the firm, the staff should:

- focus on putting matters right where possible
- ensure that their line manager/partner is aware of the matter at the earliest possible stage
- assess with their line manager/partner what lessons can be drawn from the situation in order to avoid any repetition of the problem or issue
- after discussion with their line manager/partner, issue an apology to the affected party if appropriate in the situation.

In most cases, the client (or other party making the complaint) will be content that matters have been put right and an apology given. However, there will be occasions where clients (or others) will feel sufficiently strongly about an issue that they will want to take matters further. In such cases, it is

important that the firm does not, in any way, impede such further reviews.

The firm's procedures should always allow for clients to take the matter up as a **second-tier complaint** with the Legal Ombudsman by making them aware of that possible course of action. This does not prevent a firm continuing to try to resolve the matter with the client.

The remit of the Legal Ombudsman covers complaints about **poor service**. However, if a second-tier complaint referred to the Legal Ombudsman involves possible **misconduct**, the complaint will be redirected to ACCA for investigation through our investigation and disciplinary process.

Overarching aims

The overarching aims of the procedures, which are set out in section B9 of the Code of Ethics and Conduct, should ensure:

- the proper handling of complaints from clients relevant to members' and firms' compliance with the regulatory system
- that complaints are acknowledged within a reasonable time of their being received
- where a complaint has been made orally, that the letter of acknowledgement states the member's and firm's understanding as to the nature of the complaint being made, and invites the complainant to confirm in writing the accuracy of that statement
- that complaints are investigated by a person of sufficient experience, seniority and competence who, where possible, was not directly involved in the particular act or omission giving rise to the complaint
- that any appropriate remedial action on those complaints is promptly taken
- where a complaint is not promptly remedied, that the client is advised of the availability of alternative courses of action.

Procedures

Firms holding a legal activities certificate should follow specific procedures in relation to legal activities complaints and staff within the firm should be made aware of these procedures.

Many complaints can be resolved satisfactorily by following the procedures set out below. In this way, the level of 'client care' is improved and issues of 'poor service' may be resolved without the need for matters to be taken further.

The purpose of this process is to focus on the issues that gave rise to the complaint. Further, it is taken as read that firms will, at all times, be professional and courteous in their dealings with clients and others.

The procedures to be followed include:

- completion of the complaint notification form
- acknowledgement of the complaint within seven days of receipt
- where the complaint was received by telephone, making a telephone attendance note and sending a letter of acknowledgement outlining your firm's understanding as to the nature of the complaint may be made, and inviting the complainant to confirm in writing the accuracy of the letter
- investigating the complaint in a fair, prompt, constructive and honest manner. The investigation should be conducted by an individual of sufficient experience, seniority and competence who, where possible, was not directly involved in the particular act or omission giving rise to the complaint
- taking any appropriate remedial action promptly
- notifying the client in writing of the firm's final response within eight weeks of receiving the complaint
- if the complainant is not satisfied within the eight week timeframe, advising the complainant in writing that he or she may take the matter up with the Legal Ombudsman as a second-tier complaint, including the timeframe for doing so and full details of how to contact the Legal Ombudsman. It is important to avoid any charge that the matter is being covered up
- cooperating with the Legal Ombudsman during the course of its investigation
- complying with any decision that the Legal Ombudsman may make and promptly implementing any remedy ordered by the Legal Ombudsman
- providing ACCA with such details of complaints as ACCA may request (whether by writing, visiting the firm's offices or other means) within 28 days of receiving such a request

- filing the completed notification form and related correspondence in a separate complaint file.

It is important that, at the conclusion of the complaints process, your firm reflects on whether procedures or systems could be introduced or modified to avoid similar complaints arising in the future.

To assist firms to log complaints, an example of a **complaint notification form** is reproduced in the **Appendix** to this factsheet.

Additional procedures for 'larger' firms

For 'larger' firms additional procedures may be necessary and these can include:

- bringing the matter to the attention of the line manager (or partner as appropriate) at the earliest possible opportunity, and supplying him or her with the complaints notification form
- the line manager discussing with a partner the proposed course of action and dealing with the complaint in the first instance, in conjunction with the partner
- where the complaint is against a manager, it should be investigated by a partner. In the event of a complaint against a partner, it should be investigated by another partner with sufficient experience, seniority and competence who, where possible, was not directly involved in the particular act or omission giving rise to the complaint
- when filing the completed complaint notification form and related correspondence, passing a copy of the completed complaints notification form to the individual leading the investigation.

Informing clients

You must make clients aware of their right to make a **first-tier complaint** to your firm in the letter of engagement (or accompanying terms and conditions). This should include the name of the individual to be contacted and details of your firm's internal complaints procedures.

You are also required to advise clients of any rights to make a **second-tier complaint** to the Legal Ombudsman if the first-tier complaint has not been resolved to the client's satisfaction within eight weeks, and the process for doing so.

You should include the timeframe for making a complaint to the Legal Ombudsman. Ordinarily, the following timescales apply:

- 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; and

- c) the complainant must refer the complaint to the Legal Ombudsman within six months of the date of your firm's written response.

You should also include the contact details for the Legal Ombudsman:

Tel: 0300 555 0333

Address: Legal Ombudsman, PO Box 6806, Wolverhampton, WV1 9WJ

Email: enquiries@legalombudsman.co.uk

The example wording below is recommended by ACCA.

'We aim to provide a high quality of service at all times. If you would like to discuss with us how our service could be improved or if you are dissatisfied with the service that you are receiving please let us know by contacting [Insert name of relevant individual].

We undertake to look into any complaint carefully and promptly and to do all we can to explain the position to you. If we do not answer your complaint to your satisfaction within 8 weeks you may take up the matter with the Legal Ombudsman. This should be done promptly and in any event no later than 6 months after exhausting our procedures. [Insert timeframe for making a second-tier complaint and contact details for Legal Ombudsman.]'

Record keeping

The complaint notification form and related correspondence, including information from the Legal Ombudsman (if applicable) should be filed in a separate complaints file. In line with general convention, it may be prudent to retain records of complaints for six years.

Appendix

COMPLAINT NOTIFICATION FORM

(Note: This form should be adapted to suit the individual requirements of the firm.)

PRIVATE AND CONFIDENTIAL

Circulation of this form should be restricted to:

- principals of the firm
- personnel directly involved in the complaint and their line managers
- legal advisers, professional indemnity insurance providers, ACCA and other regulators (where appropriate).

Date of complaint:

Format of complaint (tick those applicable):

- Letter (attach copy)
- Telephone call (attach file note)
- In person (attach meeting note)
- Email (attach copy)
- Fax (attach copy)

Person against whom complaint was made:

Department:

Line manager:

Engagement partner:

Complainant:

Partner managing complaint:

Brief description of complaint:

Date of letter acknowledging complaint:

Date matter resolved:

Details of how it was resolved:

Proposed courses of action:

COMPLAINT NOTIFICATION FORM (Cont.)

Impact on firm's quality control system:

Date of letter to client summarising outcome:

Date discussed with person against whom complaint was made:

Date discussed with line manager/engagement partner:

Signed by:

(Person against whom complaint was made)

(Partner managing complaint)

(Line manager)
