

## **Operational protocol between the Solicitors Regulation Authority and the Legal Ombudsman**

### **Introduction**

1. The Solicitors Regulation Authority (SRA) and the Legal Ombudsman have in place a Memorandum of Understanding (MoU) that sets out a framework for how we will work together.
2. The MoU provides that the parties will detail their working relationship in this protocol. The protocol provides for the arrangements the parties have in place to share and disclose information for our regulatory and/or redress purposes, in compliance with our obligations set out within the Legal Services Act 2007.
3. The Legal Ombudsman and SRA will monitor the operation of this protocol and formally review it annually. Regular meetings will be held to discuss any issues throughout the year.
4. As part of monitoring the effectiveness of our relationship, the SRA and the Legal Ombudsman will meet once a quarter. The purpose of these meetings is to:
  - a) Provide feedback on the quality of the exchange of information between the two organisations including, but not limited to, conduct referrals.
  - b) Review the effectiveness of processes in place to support the exchange of information.
  - c) Discuss issues of wider concern that may impact on how we work together including impact of identified complaint trends for either organisation.
  - d) Plan any communications that we need either to support our relationship or for the benefit of solicitors or others regulated by the SRA.
  - e) Alert each other to any emerging issues, consultations or other activities that are of interest.
  - f) Discuss any other issues of concern to either the SRA or the Legal Ombudsman.

### **Cooperation**

5. Both the SRA and the Legal Ombudsman agree to identify points of contact within their teams to facilitate information sharing.
6. Should the Legal Ombudsman receive complaints that fall outside its jurisdiction (and which they believe may fall within SRA's jurisdiction) then

the complainants will be advised to contact the SRA direct and/or these will be forwarded to the SRA. If the Legal Ombudsman holds any data, for example a scanned letter of complaint, then the Legal Ombudsman will forward this to SRA using the agreed mechanism, and advise the customer that they have done so.

7. Should the SRA receive complaints that fall outside its jurisdiction (and which they believe may fall within Legal Ombudsman's jurisdiction) then the complainants will be advised to contact the Legal Ombudsman direct and/or these will be forwarded to Legal Ombudsman. If the SRA holds any data, for example a letter of complaint, then the SRA will forward it to the Legal Ombudsman using the agreed mechanism, and advise the customer that they have done so.

### **Information sharing**

8. The Legal Ombudsman agrees that it will share management information with the SRA on a monthly basis. This information is shared on the basis that SRA will restrict the use to regulatory purposes. The Legal Ombudsman recognises that the SRA may disclose information where legally required to do so, where the person to whom the duty of confidentiality is owed consents to the disclosure or where the SRA has a discretion to disclose and it is proportionate and lawful to do so.

The information the Legal Ombudsman agrees to share is as follows:

- a) The number of contacts received by the Legal Ombudsman about entities regulated by the SRA, whether about service or conduct, and where the Legal Ombudsman has a casefile<sup>1</sup> reference.
- b) The number of contacts received by the Legal Ombudsman about those entities regulated by the SRA where the consumer is referred back to make a complaint direct to the solicitor in the first instance (premature complaints).
- c) The number of complaints received by the Legal Ombudsman about those entities regulated by the SRA that are accepted by the Ombudsman scheme for resolution ('cases').
- d) The numbers of referrals for possible misconduct about those entities regulated by the SRA to the SRA.
- e) A breakdown of the subject matter<sup>2</sup> of all complaints accepted by the Legal Ombudsman about those entities regulated by the SRA.
- f) A breakdown of the outcomes<sup>3</sup> of all complaints about those entities regulated by the SRA which fall within jurisdiction.

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<sup>1</sup> A casefile – being the record on the Legal Ombudsman's case management system which holds the details of the contact, complaint and other details relevant to any investigation which may or may not arise.

<sup>2</sup> Subject matter – being the complaint types recorded in the Legal Ombudsman's case management system.

<sup>3</sup> Outcomes – being the closure code reason.

- g) The number of complaints rejected by the Legal Ombudsman as being outside jurisdiction and why (out of time, conduct matters and so on).
  - h) Following specific requests from the SRA, and where lawful to do so, the Legal Ombudsman will disclose the number of cases investigated against a specific firm or individual regulated by the SRA including outcomes. Where the SRA makes such a request it will confirm its reasons for requesting the information. Any such requests will be made using the agreed mechanism.
  - i) Reports of a failure to comply with a decision of the Legal Ombudsman or a failure to pay a case fee. Such reports are made using an agreed compliance conduct referral form and shall include copies of chasing correspondence and a copy of the invoice where relevant. Where the Legal Ombudsman receives payment the SRA will be informed. If the SRA receives payment directly it is agreed this will be returned advising the firm or individual to make payment direct to the Legal Ombudsman.
  - j) Where the Legal Ombudsman considers there has been a failure to cooperate with an investigation or determination of a complaint, it shall report such a failing to the SRA providing details of the failing. The report may require the SRA to report back to the Legal Ombudsman on any action taken or to be taken by the SRA.
9. The Legal Ombudsman will alert the SRA to any serious shortcomings in a firm's complaint-handling or other issues that may require action by the SRA in its regulatory role. This can either be through the regular feedback meetings, or if the matter is considered to be of a serious nature, through conduct referral mechanism.
10. The SRA agrees that it will share information with the Legal Ombudsman on a quarterly basis. This information is shared on the understanding that the Legal Ombudsman will restrict the use to Ombudsman purposes only:
- a) Updates about any category of information that the SRA or the Legal Ombudsman believes is required to assist the Legal Ombudsman report to the SRA (for example information about changes to firms' complaints handling procedures), although in practice this is likely to happen on an ad-hoc basis.
  - b) Number of times (compared to numbers of referrals made) that the SRA has investigated or taken some action in response to a referral for possible misconduct by the Legal Ombudsman.
  - c) Number of times (compared to numbers of referrals made) that the SRA has investigated or taken some action in response to a referral for possible misconduct by the Legal Ombudsman where the referral was made due to a lack of cooperation with the Ombudsman scheme and the outcome.
  - d) Any specific trends or risks that the Legal Ombudsman wishes the SRA to report against; although in practice this is likely to happen on an ad-hoc basis.

- e) Changes to the code of conduct or other key guidance, although in practice this is likely to happen on an ad-hoc basis.

11. The SRA agrees that it will share the following information with the Legal Ombudsman, with the data being refreshed and updated daily to reflect the SRA IT system:

- a) Updates about who is regulated by the SRA, to assist the Legal Ombudsman in validating whether a lawyer or non lawyer is within the jurisdiction of the Legal Ombudsman. Information provided to the Legal Ombudsman includes:
  - i. Solicitor/lawyer name.
  - ii. Regis ID for firm and solicitor/lawyer.
  - iii. Lawyer/solicitor employment history.
  - iv. Firm name, address and contact details (telephone and email).
  - v. Firm complaints handling partner.
  - vi. Successor firm information.
- b) Instances where a solicitor has been struck off or suspended and is no longer eligible to practise.

The SRA agrees that it will share the following information with the Legal upon request unless alternative mechanisms are listed below:

- a) The regulator of the firm where this is not the SRA.
- b) Closed firms.
- c) Intervention notice email which includes details of the intervention agents appointed by the SRA (automatic email sent on day of notice).
- d) An up to date address, where appropriate, if a business address is no longer relevant.
- e) Report the outcomes of a referral for possible misconduct where the Ombudsman has specifically asked for the SRA to detail the action it has taken in response to the referral (SRA caseworker to inform Legal Ombudsman investigator upon closure of individual matter).
- f) Closed firm information including location of files and deeds.
- g) Successor firm information.
- h) Confirmation of solicitors current practice details where not provided on the daily report
- i) Requests for client file (with client's permission) where a firm has been intervened
- j) General queries for information to assist the Legal Ombudsman with their ongoing investigations

### **Method of information exchange**

12. The SRA and the Legal Ombudsman agree to share this information by secure FTP Server and/or by email.

## **Referring possible misconduct to the SRA**

13. Where the Legal Ombudsman believes that regulatory action may be required, it will promptly report to the SRA possible cases of misconduct which have become apparent through an investigation. This can be done at any stage in the business process.
14. Any referral of possible misconduct made by the Legal Ombudsman to the SRA will include:
  - a) Information about the solicitor (or other regulated person).
  - b) A succinct summary of the reason for the referral for possible misconduct.
  - c) Any written information that the customer or the lawyer has provided that has prompted the referral being made.
  - d) Any requirement for the SRA to report to the Legal Ombudsman the outcome of the conduct referral at the conclusion of the case.

If a referral for possible misconduct arises from a solicitor's non-cooperation with the Ombudsman scheme then only the information relevant to that non-cooperation will be shared with the SRA.

15. In the case of a referral of potential misconduct from the Legal Ombudsman to the SRA, the Legal Ombudsman will normally advise the customer and the lawyer that a referral has been made to the SRA as the Approved Regulator. If there is a risk that a regulatory investigation could be prejudiced, for example in a case of suspected money laundering, then the parties will not be made aware of the referral.
16. Where the complaint covers service and conduct matters then the conduct element will be referred to the SRA for action. A parallel investigation may then take place, depending on the level of misconduct identified. These are known as hybrid complaints. Where it has been determined that the complaint is a hybrid complaint the Legal Ombudsman agrees to provide the SRA with additional information related to the referred conduct issue if it comes to light during the service investigation. It will be for the SRA to decide what action to take in relation to the complaint, which may include running a parallel investigation or waiting until the conclusion of the Legal Ombudsman's investigation into the service issues. The Legal Ombudsman will advise the customer of the referral to the SRA (and inform them that there is no need for them to make direct contact) unless there is a risk that a regulatory investigation could be prejudiced, for example in a case of suspected money laundering.
17. The SRA agrees to work with the Legal Ombudsman to review the quality of referrals of possible misconduct, and feed back through the review meetings any common areas of incorrect referral.

## Training and guidance

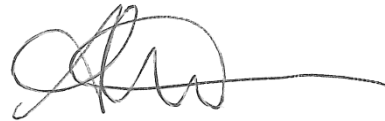
18. The SRA may provide training to Legal Ombudsman staff covering the following:

- a) The role of the SRA.
- b) Who is regulated by the SRA and what the Legal Ombudsman should do if it receives complaints about a firm or a solicitor who falls outside of the jurisdiction of the Legal Ombudsman.
- c) How the SRA investigates conduct issues and what it expects of the Legal Ombudsman to support its regulatory role.

Mike Jeacock  
Solicitors Regulatory Authority

A handwritten signature in black ink, appearing to read 'Jeacock', with a large, stylized initial 'J'.

Alison Robinson  
Legal Ombudsman

A handwritten signature in black ink, appearing to read 'AR', with a long horizontal flourish extending to the right.

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