



# PROGRESS FOR NEW COMPLAINTS BODY

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The Office for Legal Complaints ("OLC"), the new body created by the Legal Services Act 2007, will replace the Legal Complaints Service at the end of 2010. The new office which will be based in Birmingham will deal with complaints about solicitors, barristers, legal executives and licensed conveyancers.

Adam Sampson, the Chief Ombudsman said "We are delighted that we will open the new Ombudsman scheme for legal services in Birmingham. It is a great city that we think our staff will enjoy working in. We are also very pleased to meet the Government's commitment for us to be based in the West Midlands."

Draft rules have been published by the OLC that propose sweeping changes to the way in which legal complaints are presently dealt with.

Under the draft rules, complaints must be received within one year from the act/omission, or one year from when the complainant knew or should reasonably have known that there was cause for complaint without taking advice from a third party; whichever is later. This time limit brings the legal services in line with other professions such as surveyors. However, it doubles the six month time limit currently in place at the Legal Complaints Service.

Up to £30,000 compensation is proposed for loss suffered, inconvenience/distress caused, the reasonable cost of putting right any error, omission or other deficiency, and any specified action in the interests of the complainant. This is a very significant increase on the £15,000 maximum compensation payment for poor service against solicitors at present.

The OLC is recommending that it recovers a proportion of its costs by charging a flat fee to legal practitioners unless the complaint is resolved in their favour and the Ombudsman is satisfied that they took all reasonable steps to try and resolve the complaint. It is likely that many solicitors will oppose this second requirement. However, the OLC have stated that they do not have capacity to change it as the wording is drawn from the Legal Services Act 2007. The amount

of the fee will be subject to a separate consultation.

The most drastic change is that the OLC will be able to investigate complaints arising from professional negligence. Presently such complaints are dealt with through the courts unless settled beforehand. The present system provides a degree of predictability for professional indemnity insurers and their solicitor clients. In the future professional negligence claims under £30,000 may become something of a lottery if OLC caseworkers are allowed to investigate and resolve issues of law normally reserved to the judiciary.

On the other hand lay clients will welcome the ability to bring a professional negligence claim without paying a second solicitor for independent legal advice. The longer time limits may still encourage the serial "green ink" complainers. Whatever the advantages or disadvantages the legal profession as a whole is likely to face an increase in the time taken to deal with these complaints.

Members of the profession particularly those involved in the professional indemnity market should make their views known. The OLC are requesting comments on the draft rules by 8 December 2009 at [www.officeforlegalcomplaints.org.uk](http://www.officeforlegalcomplaints.org.uk)

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