



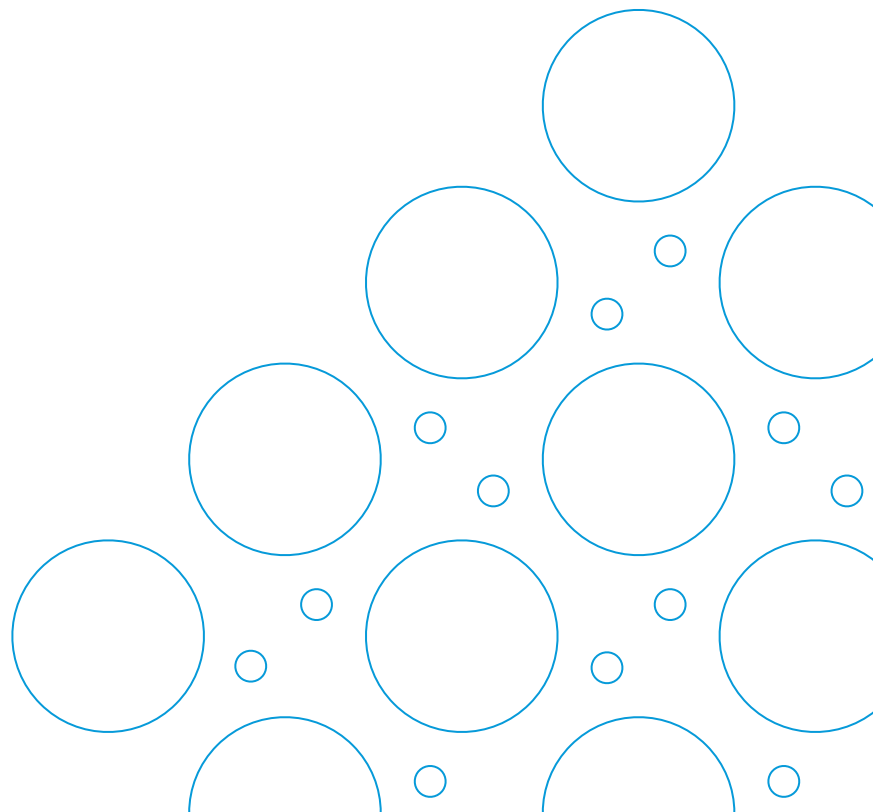
Ministry  
of Justice

LEGAL  
OMBUDSMAN

Claims Management Regulation

# Complaints guidance - What do the rules mean for me?

December 2014





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# Introduction

This note is designed by the Claims Management Regulator (CMR) and the Legal Ombudsman to provide guidance on the effect of the extension of the jurisdiction of the Legal Ombudsman. From 28 January 2015 the Legal Ombudsman will be able to look at consumer complaints about claims management companies (CMCs). This note sets out how this will work and answer some common questions.

The aim of this guidance note is to assist CMCs and consumers with:

- Understanding the changes to the role of both the Legal Ombudsman and the CMR
- Understanding the changes required to the CMC complaint handling process
- Understanding how the two organisations will work together

## Background

In August 2012 the government announced its intention for the Legal Ombudsman to have jurisdiction over CMCs. In order for this to happen certain changes have had to be made to legislation and the CMR's Complaint Handling Rules 2006. These changes are mostly technical and consequential and are required due to the Legal Services Act 2007.

# What do the rule changes mean?

The rule changes mean that the Legal Ombudsman will now look into service related complaints about CMCs. The purpose of these changes is to promote greater consumer protection and drive up the service standards within the industry.

The changes to the legislation mean that the CMR will no longer have the power to direct a CMC to refund its charges, ask a CMC to re-do work, or ask a CMC to apologise to consumers in respect of the service that they have received. The CMR's power to issue directions is also amended to take out any element of CMC complaints handling.

CMCs will need to change their complaint handling procedures and standard letters to reflect the change in jurisdiction.

Further information on the rule changes can be found in the frequently asked questions (FAQs) section below.

## Role of the Legal Ombudsman

The Legal Ombudsman will be able to consider complaints brought by consumers about the service provided by a CMC. This can involve a range of remedies to provide a resolution. It is important to note that the role of the Legal Ombudsman is individual dispute resolution; it is not there to punish firms but to ensure that consumers are treated fairly.

## Role of the CMR

The role of the CMR has not significantly changed, it continues to tackle bad practices within the claims management industry and take regulatory action when businesses break the rules. It also remains responsible for the licensing of new firms wishing to operate in the industry. The CMR's primary concern is to look at the conduct of CMCs in relation to the rules.

## How will the two organisations work together?

The relationship between these two organisations is very important. It is intended that information is shared between the two in order to safeguard consumer rights and provide clear guidance to the industry.

However, the work of one body does not immediately impact on the work of the other. For example, if the Legal Ombudsman identifies a trend of complaints it may pass this information on to the CMR who will investigate any regulatory breaches that may have occurred. The CMR may also provide the Legal Ombudsman with information to assist it in considering complaints when necessary.

The Legal Ombudsman and the CMR will continue to work together to ensure that the new complaints handling jurisdiction is effective in ensuring that consumers are treated fairly and that high levels of service are promoted throughout the industry.

Where a financial penalty is deemed necessary an appropriate penalty amount will be considered. Overall, specific penalty amounts will not be attributed to specific individual breaches of the rules but rather the overall nature and seriousness of a breach or collection of breaches.

In order to assist the calculation of any potential penalty, the Regulator may request turnover information from the authorised person when notifying them that they are subject to an investigation. Where turnover information is not forthcoming or where an authorised person has not been notified of an ongoing investigation, the Regulator will rely on the turnover figures supplied during the previous renewal of authorisation exercise or will make a judgement based on the relative size and nature of the business concerned before providing an opportunity for the authorised person to provide more accurate and up to date turnover information.

# FAQs

## **Q. What do CMCs need to do?**

- A. CMCs will need to familiarise themselves with the remit of the Legal Ombudsman and the CMR's new complaint handling rules and make sure that their complaints handling procedures are compliant. CMCs should also ensure that they have provided all staff with an up to date understanding of the changes. This may include providing training sessions and guidance on what the practical effect of these changes are. The rules are generally self explanatory and any queries can be raised with the Claims Management Regulator if advice is required.

## **Q. When do these changes need to happen?**

- A. The changes need to be in place by the 28 January 2015, when the Legal Ombudsman will start taking complaints about CMCs. CMCs must ensure that their members of staff are fully aware of the changes and what this means for their obligations before the new Complaint Handling Rules come into force.

## **Q. Do the rule changes apply to cases that are ongoing on this date?**

- A. Yes. The new rules will apply to any complaints that you are currently dealing with on the 28 January 2015, where a final response has not been issued.

## **Q. Rule 13 states that existing customers should be notified of the right to complain to the Legal Ombudsman at "the next appropriate opportunity." What does this mean?**

- A. We would consider the "next appropriate opportunity" to include (but not limited to) any correspondence sent to clients, for instance about the progress of their claim; if you contract with existing clients for additional services or claims; if you amend your terms and conditions; or if a client makes a complaint to you. For example you could do this by adding the details in a paragraph in a letter or in the footer of your business headed paper or email.

## **Q. What information do CMCs need to provide consumers with?**

- A. CMCs need to provide consumers with the contact information for the Legal Ombudsman and the time limits that apply to bringing a complaint. If you don't do this the Legal Ombudsman may decide to look at a case even though the consumer is officially "out of time". The Legal Ombudsman will shortly be releasing a policy statement on the time limits that will apply.

## **Q. What do consumers need to do before they take their case to the Legal Ombudsman?**

- A. Consumers must complain to the CMC before they take their case to the Legal Ombudsman. The CMC will have eight weeks to try and resolve the issues. If the problem can't be resolved then the Legal Ombudsman may be able to help.



**Q. If a consumer has already complained to the Regulator can they complain again to the Legal Ombudsman?**

A. It really depends on what happened when the consumer went to the Regulator. However, the Legal Ombudsman will take into account everything that has happened prior to the complaint coming to them. This will include any action taken by other bodies.

**Q. How much will this cost consumers?**

A. The service is completely free for consumers.

**Q. How much will this cost CMCs?**

A. CMCs will be charged an annual fee to cover the costs of the service that the Legal Ombudsman provides. The level of fees has been consulted upon and the intended framework for the fees can be found within the response to this consultation.

A case fee (currently £400) is payable by the business/partnership or individual authorised person for every potentially chargeable complaint when it is closed unless:

- a) the complaint was:  
abandoned or withdrawn; or  
settled, resolved or determined in favour of the authorised person; and
- b) the ombudsman is satisfied that the authorised person took all reasonable steps, under his/her complaints procedures, to try to resolve the complaint.

**Q. How wide is the Legal Ombudsman's jurisdiction – will they only look at regulated work?**

A. The legislation makes it clear that once a person is authorised to undertake a reserved legal activity, then any legal activity they provide falls under the remit of the Legal Ombudsman. What is less clear is whether the Legal Ombudsman's jurisdiction should extend to cover non-legal activities undertaken by authorised persons. Because of this lack of clarity, the Legal Ombudsman has released a statement explaining how it will decide which cases it should deal with- this can be found on the Legal Ombudsman's website.

**Q. What information am I required to share with the Legal Ombudsman?**

A. When the Legal Ombudsman accept a complaint for investigation, they will ask for a copy of the complaint and the CMC's response. They won't need to see the whole file, just the complaint file. This should only contain the record of events, correspondence and other documents that relate specifically to the complaint. They may ask you for further information throughout the investigation.

The Legal Ombudsman will ask for copies of documents rather than the originals, and they prefer to receive them by email. Any documents sent in the post will be scanned and then destroyed, unless they have specifically asked for original documents. In this case, they will keep the originals safe and return them to you once the complaint has been resolved or closed.



## Contact Information

For queries concerning information in this publication please contact us at:

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