



The Law Society

www.lawsociety.org.uk

Mental health
complaints guide
2014

- Excellent
- Very good
- Good
- Average
- Poor



How to complain about legal representatives in mental health practice in England and Wales

Whether you are a client or someone working in mental health, there are minimum standards of service and professional conduct that you should expect of mental health lawyers (this includes solicitors, barristers and legal executives). This guidance is designed to help you to understand who to go to if those standards are not met, and what to expect if you choose to make a complaint.

If you find it difficult to make a complaint yourself, you can ask someone else to make it for you; for instance a carer, relative or someone who has been appointed to safeguard your welfare.

First step: contact the lawyer's employer

First, you should always try to resolve any complaint directly with the lawyer or the organisation which they work for. The employer (usually a solicitor's firm or a barrister's chambers) should have an internal procedure for handling complaints, which you can ask to see. You may be asked to set out your complaint in writing, explaining why you are dissatisfied and how you would like the complaint to be resolved. You should allow eight weeks for a response to your complaint.

What to do if you are not satisfied with the handling of your complaint

If after you have received a reply to your complaint you feel that it has not been resolved, you can take one of the following steps. You may feel it necessary to refer your complaint to more than one of the regulators listed as their roles can overlap.

1) If your complaint is about the service provided by a lawyer, contact the Legal Ombudsman

The Legal Ombudsman is able to consider a wide range of complaints about the service provided by a lawyer, including:

- unreasonable delay
- being poorly prepared for a hearing
- failing to act upon your instructions
- pressuring you to accept a service that you did not want.

Contacting the Legal Ombudsman

By phone	Monday–Friday 8.30am–5.30pm 0300 555 0333 0300 555 1777 (Minicom)
By email	enquiries@legalombudsman.org.uk
By post	Legal Ombudsman PO Box 6806 Wolverhampton WV1 9WJ

The Legal Ombudsman will want to know that you have first tried to resolve the complaint with the lawyer’s employer and that you have given them time to reply to you. Importantly, you must make a complaint to the Ombudsman within 12 months of the problem which you want to complain about.

After the Ombudsman has received your complaint, it will be given to an investigator within 10 working days. The investigator will then contact you within five working days to discuss your case. If the complaint cannot be resolved by the investigator with the lawyer, the investigator may make recommendations to the Legal Ombudsman. You will be given the opportunity to comment on the recommendations.



The Legal Ombudsman's decision

The Legal Ombudsman will write to you with the decision on your complaint. If you accept the decision, the lawyer must do what the Legal Ombudsman has decided (for example, pay you compensation), otherwise they could be taken to court. If you accept the decision, and it is in your favour, you will not be able to take any further legal action about your complaint. If you do not accept the decision, the Legal Ombudsman will close your case. Legal Ombudsman decisions are final.

The Legal Ombudsman aim to complete investigations within 90 days.

For more information on the Legal Ombudsman's role visit www.legalombudsman.org.uk.

2) If your complaint is about a lawyer's professional conduct, contact the relevant regulator

All lawyers are subject to codes of conduct set by a regulator. Examples of misconduct include:

- dishonesty
- fraud
- discrimination
- taking on a case that is outside their competence.

There are different regulators for different lawyers.

Solicitors

The Solicitors Regulation Authority (SRA) regulates solicitors and their firms, anyone employed by them, and anyone managing a firm or legal business in England and Wales. The SRA's role is separate from that of the Legal Ombudsman, but they will share information with each other when necessary.

The SRA sets out the mandatory principles which solicitors must follow in their Code of Conduct. Solicitors must:

1. uphold the rule of law and the proper administration of justice
2. act with integrity
3. not allow their independence to be compromised
4. act in the best interests of each client
5. provide a proper standard of service to their clients
6. behave in a way that maintains the trust the public places in them and in the provision of legal services
7. comply with their legal and regulatory obligations and deal with their regulators and ombudsmen in an open, timely and co-operative manner
8. run their business or carry out their role in the business effectively and in accordance with proper governance and sound financial and risk management principles;
9. run their business or carry out their role in the business in a way that encourages equality of opportunity and respect for diversity; and
10. protect client money and assets.



Contacting the SRA

By phone	0870 606 2555
By email	report@sra.org.uk
By post	The Solicitors Regulation Authority The Cube 199 Wharfside Street Birmingham B1 1RN

*The SRA uses a standard form which you can download from <http://www.sra.org.uk/consumers/problems/report-solicitor.page>.

If you are not able to access the website or would like reasonable adjustments to be made to help you make a complaint, please contact the SRA.

The SRA will make a risk assessment of the information which you give them. As for all the legal regulators, the SRA will consider the seriousness of the behaviour or incident, and the extent to which it presents a risk to consumers or damages confidence in the legal profession. Based on that risk assessment, the SRA may decide to:

- take no action
- supervise the firm or the solicitor more closely
- undertake a fuller investigation.

A full investigation may lead to disciplinary action, which could include:

- suspending, putting conditions on or removing a solicitor's practising certificate
- stopping them from carrying out certain roles in the firm
- a fine
- a written rebuke.

The SRA will acknowledge receipt of all complaints it receives. However, you will only hear about the progress of a complaint if it results in a full investigation by the SRA and further information is required from you.

If you are unhappy with how the SRA deals with a matter, you can make a complaint. For more information visit www.sra.org.uk/complain.

Barristers

The regulatory body for barristers is the Bar Standards Board (BSB). The BSB's role is separate from that of the Legal Ombudsman, but they will share information with each other when necessary.

Contacting the BSB

By phone	020 7611 1445
By email	contactus@barstandardsboard.org.uk
By post	289-293 High Holborn London WC1V 7HZ

You must make a complaint to the BSB within 12 months of the problem which you want to complain about. If you make a complaint to the BSB, it will consider whether there is evidence to suggest a breach of the BSB's Code of Conduct. If so, the complaint will be referred to a Disciplinary Tribunal which, if the complaint is upheld can:

- reprimand the barrister
- fine the barrister
- require the barrister to undertake further training
- in more serious cases, suspend or disbar the barrister from practising.

More information on the BSB's role is at www.barstandardsboard.org.uk



3) Other organisations which can deal with complaints

The Legal Aid Agency (LAA)

The LAA is responsible for the contracts under which lawyers provide legally-aided advice and representation. You can tell the LAA about your concerns about a lawyer or a law firm which is providing legal aid services such as a complaint about poor service.

If a firm fails to meet the standards under their contract with the LAA, the contract manager in your local LAA office will discuss this with them and may take action under the contract. The types of complaint that the LAA can deal with include:

- fraudulent claiming of public funds
- turning down clients who are eligible for legal aid
- concerns about meeting LAA quality standards, like proper supervision of lawyers.

Contacting the LAA

By phone	0300 200 2020
By email	Ho.complaints@legalaid.gsi.gov.uk
By post	Legal Aid Agency 8.40 8th Floor 102 Petty France London SW1H 9AJ

The Law Society

The Law Society no longer regulates solicitors but it does administer the Mental Health Accreditation Scheme. If you have been represented in the Mental Health Tribunal by a solicitor or legal executive it is quite likely that they are a member of this scheme.

The Law Society does not have the same powers to investigate or deal with complaints as the Legal Ombudsman or the SRA, but it will consider complaints for the purposes of reviewing whether a lawyer should continue to be a member of the accreditation scheme. It will also consider whether any information which you provide should be passed on to the Legal Ombudsman or the SRA (with your permission).

Contacting the Law Society

By phone	0870 6062566
By email	accreditation@lawsociety.org.uk
By post	Accreditation Team The Law Society 113 Chancery Lane London WC2A 1PL



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