

## FIRST TIER COMPLAINTS HANDLING GUIDANCE

1. This guidance applies to all CILEX members, CILEX Practitioners and CILEX Authorised Entities. If you are a member working in a firm regulated by another regulator, you will need to comply with that regulator's appropriate guidance.
2. Principle 5 of the [CILEX Code of Conduct](#) requires individuals regulated by CILEX Regulation (CRL) to inform clients fully and honestly about their complaints procedures. This includes the client's right to refer a complaint to the Legal Ombudsman or CRL where appropriate.
3. This guidance is set out in three parts:
  - **Section 1** contains tables setting out the different organisations that you need to signpost clients to within your complaints handling procedures.
  - **Section 2** explains how you can comply with your requirement to inform your clients of their right to refer a complaint to the Legal Ombudsman or CRL where appropriate.
  - **Section 3** sets out your obligation to signpost a client to an Alternative Dispute Resolution (ADR) Body.
4. You must take all practicable steps to achieve the following **complaints handling outcomes**. You must make sure that:
  - complaints handling procedures are fair, transparent and provide effective safeguards for clients;
  - complaints are dealt with comprehensively and swiftly; and
  - appropriate redress is provided where necessary.
5. Even if you do not have direct responsibility for complaints handling policy or procedures within your firm or workplace, you are expected to understand and seek to comply with this guidance where appropriate.
6. In addition to notifying clients of their complaint handling rights in writing we recommend that you consider additional ways that you can communicate this information to consumers. For example, through website content, mobile apps, and other types of business communications; and CILEX Authorised Entities subject to [CILEX Regulation Transparency Rules](#) must publish their complaints handling procedure on their website.
7. For the purpose of this guidance a complaint is an oral or written expression of dissatisfaction which alleges that the complainant has suffered (or may suffer) financial loss, distress, inconvenience or other detriment.
8. We recommend that CILEX Authorised Entities and firms operated by CILEX Fellows, maintain records of all complaints received and outcomes achieved. These records should be reviewed regularly with the aim of improving the delivery of **complaints handling outcomes**. We will expect our CILEX Authorised Entities to be able to demonstrate that they are delivering the **complaints handling outcomes**.

## Section 1

### Organisations to signpost to:

	Complaints about <b>service</b> signpost to:	Complaints about <b>conduct</b> signpost to:
<b>CILEX members</b> working in a firm <u>regulated by</u> <u>another regulator</u>	<b>Legal Ombudsman</b>	<b>CILEx Regulation</b>
<b>CILEX Fellows</b> working in their own non-regulated firm	<b>Legal Ombudsman</b>	<b>CILEx Regulation</b>
<b>CILEX members</b> working in their own non-regulated firm	<b>CILEx Regulation</b>	<b>CILEx Regulation</b>
<b>CILEX Authorised Entity</b>	<b>Legal Ombudsman</b>	<b>CILEx Regulation</b>

	<b>Alternative Dispute Resolution (ADR) – for all firms</b>
<b>CILEX members</b> working in a firm <u>regulated by</u> <u>another regulator</u>	Comply with your employer’s guidance on signposting consumers to an approved Alternative Dispute Resolution body.
<b>CILEX Fellows</b> working in their own non-regulated firm	You must signpost consumers to an approved Alternative Dispute Resolution body, although there is no obligation on you to use the approved ADR.
<b>CILEX members</b> working in their own non-regulated firm	
<b>CILEX Authorised Entity</b>	

## Section 2

### Complaints to the Legal Ombudsman or CILEx Regulation

9. You must provide information about the Legal Ombudsman service to your clients at the time of engagement, or at the next appropriate opportunity, whether or not a complaint has been made to you or is in prospect.
10. If you are a CILEX Authorised Entity subject to [CILEx Regulation Transparency Rules](#) you must publish details of your complaints handling procedure including how and when a complaint can be referred to the Legal Ombudsman and to CRL on your website.
11. Clients should be given information about your complaints handling procedure when client care letters are sent or at the point where instructions are accepted.
12. Clear information should be given to clients at this time about:
  - their right to complain;
  - how to make a complaint;
  - who to make a complaint to; and
  - their right to complain to the Legal Ombudsman if any complaint regarding the service provided is not resolved to their satisfaction (see paragraphs 16, 17 and 19).
13. The process for clients to make a complaint to you must:
  - be clear, convenient and easy to use for all clients, in particular for those that are vulnerable or have disabilities;
  - be well publicised;
  - be free of charge; and
  - make provision for complaints to be made by any reasonable means.
14. Your process should be fair, with decisions about complaints based on sufficient investigation of the circumstances. Where appropriate, there should be an offer of a suitable remedy.
15. Complaints should be dealt with promptly and within the time limit within which you must resolve a complaint before the complainant can refer to the Legal Ombudsman (currently 8 weeks).
16. You must ensure that your written and published complaints procedure and your final written response to a complaint:
  - a) explains that
    - i. the Legal Ombudsman is available if the complainant remains dissatisfied at the conclusion of the complaints procedure, and
    - ii. the complaint must be referred to the Legal Ombudsman within six-months of the date of the written response and
  - b) includes full contact details for the Legal Ombudsman.
17. If the information at paragraph 16 is not included in your final written response, there is a high risk that the Legal Ombudsman will waive the six-month time limit and accept a complaint for investigation.

18. The timescales for a complaint to be referred to the Legal Ombudsman are:

**before 1 April 2023:**

- within six months of receiving a final response to your complaint **and**
- no more than six years from the date of act/omission; or
- no more than three years from when you should reasonably have known there was cause for complaint (if it took place more than six years ago)

**after 1 April 2023:**

- within six months of receiving a final response to your complaint **and**
- no more than one year from the date of the act / omission that gave rise to the complaint; or
- no more than one year from when you should reasonably have known there was cause for complaint.

19. The Legal Ombudsman has issued [Guidance](#) about the revised Scheme Rules which includes suggested wording for client care letters and complaints final response letters.

20. If you have personal responsibility for client matters and your employer has not made arrangements to comply with this guidance (or guidance or rules issued by another legal services regulator such as the SRA or the CLC) you should inform your clients of your employer's complaints handling procedures and make sure they receive the necessary information about the Legal Ombudsman service.

21. If you are regulated by CRL, you should include in client care letters and concluding correspondence statements that, as your regulator, CRL:

- may seek access to the client's papers and that, in these circumstances, you will grant CRL access unless the client objects; and
- has a consumer feedback programme and that the client's comments are welcomed. The statement must advise the client of the online programme and the alternative arrangements for participation for those without online access.

22. If a complaint is made by one of your clients or your employer's clients, a full record of the way the complaint is handled should be kept separate from the main client file. A log of all complaints made by clients should also be kept.

23. If a complaint is made to the Legal Ombudsman or CRL by one of your clients or your employer's clients, you must cooperate with the Ombudsman and CRL and assist them to deal with the complaint. This is a requirement of Principle 4 of the CILEX Code of Conduct.

### Section 3

#### Alternative Dispute Resolution

24. This section is about your obligation to inform clients about Alternative Dispute Resolution (ADR). It is in addition to your obligation to inform clients of their right to refer a complaint to the Legal Ombudsman or CRL where appropriate.

25. You are required by the [Alternative Dispute Resolution for Consumer Disputes \(Amendment\) Regulations 2015](#) to signpost consumers to an approved Alternative Dispute Resolution body, although there is no obligation on you to use the approved ADR.

26. We suggest that clients should be given information about ADR when client care letters are sent or at the point where instructions are accepted. Clear information should be given to clients about your chosen ADR body irrespective of whether you intend to use them if a service complaint is not resolved to their satisfaction.
27. At the end of any complaints process clients must be informed of the details of an ADR body, whether you intend to use that ADR body, how to make contact with the ADR body and the timescale for doing so.
28. If you have personal responsibility for client matters and your employer has not made arrangements to comply with this guidance (or guidance or rules issued by another legal services regulator such as the SRA or the CLC) you should inform your clients of your employer's complaints handling procedures and make sure they receive the necessary information about the ADR service.
29. You must inform the client ([paragraph 19 ADR Regulations](#)):
- of the name and website address of an ADR approved body, which would be competent to deal with the complaint, should both parties wish to use the scheme; and
  - whether you intend to use that ADR approved body.
30. The [Chartered Trading Standards Institute \(CTSI\)](#) has approved a number of ADR bodies who will be able to provide ADR services. You should check the list of approved ADR bodies on the CTSI website, to identify the most appropriate provider for you, as this list may change as new approved providers are added.
31. Failure to put forward an ADR option to consumers is a breach of the ADR regulations. Compliance with your legal obligations is a requirement of Principle 4 of the [CILEX Code of Conduct](#).