

# **BHATIA BEST SOLICITORS**

## **COMPLAINTS HANDLING PROCEDURE**

### **GUIDANCE NOTE**

This guidance note is intended for both clients and the Company's staff to assist in understanding complaints and so navigating a difficulty in circumstances that may already be fraught.

### **PREAMBLE**

1. The firm operates an internal complaints handling procedure as required by; the Legal Services Act 2007, the Solicitors Regulation Authority Code of Conduct 2019 (the SRA handbook) the Legal Ombudsman scheme rules 2023, and the Legal Aid Agency Standard Contract requirements. We are also compliant with the EU Directive on Consumer ADR. This is additional "*consumer protection*" because we are solicitors regulated by the Solicitors Regulation Authority.
2. The Company is confident in the quality of its service. But experience reveals that occasionally things can go wrong. Misunderstandings, inadequate communication and unmet expectations can emerge. Typically these are easily overcome, so if cause for concern arises we want to know. Indeed the sooner we know the sooner the issue can be addressed.
3. The Company is committed to dealing with complaints promptly, fairly and effectively. While the primary focus is upon '*complaint avoidance*', if concern arises speedy '*informal resolution*' is in the best interests of clients, the Company and the profession.
4. The Company values clients, after all its business is to serve its clients. The objective of complaint handling is to resolve all genuine concerns. That is best achieved if all involved engage with civility, courtesy, understanding and a desire to achieve an agreed resolution.

### **GENERAL INFORMATION ABOUT COMPLAINT HANDLING**

5. The firm's complaint handling procedure may be used for complaints about;
  - (i) the quality of legal service, or
  - (ii) concerns about fees.
6. Ash Bhatia is the company's Complaints Handling Officer (CHO).
7. Clients will not be charged for the cost of handling a complaint.
8. Clients are entitled to complain. The right to do so is enshrined in statute.
9. The procedure requires that a formal complaint is acknowledged, a proper investigation undertaken, a record made within a central register, and the client provided with a final report.

10. The Legal Ombudsman (LeO) allows firms 8 weeks to deal with a formal complaint. Ordinarily LeO will not accept a complaint until internal complaints handling is concluded. But if a client remains dissatisfied the client may escalate to the LeO thereafter or following a final report after a formal complaint.
11. Please see section headed “*How to Complain*” of this guidance note which provides more information on the 3 stages of complaint handling, how to make a complaint, and contact details for the CHO and LeO.
12. Internal complaints handling is an aspect of consumer protection afforded to clients who retain a lawyer operating in the regulated sector. When investigating concerns the objective is to see if something went wrong, if it was an “*unreasonable service*” or an “*inadequate professional service*”. If it is clear the legal service was unsatisfactory in the sense that; something was not done that should have been done, something was done wrongly or out with established law or practice rules, time limits were missed, or advice given was improper or negligent, then it is appropriate that the firm afford a remedy or put matters right. Otherwise it is simply appropriate to offer an explanation.
13. When investigating formal complaints the CHO will undertake a robust fact finding exercise to see if any part of the service was unreasonable or inadequate. In so doing the CHO will examine the case file and all computer records, speak to caseworkers involved, and call for reports from the same where necessary. This can take time and that is why 8 weeks is permitted by the rules.
14. Concerns about fees do not require a formal complaint. The complaint procedure may be used but is unnecessary and can often delay resolution. That is because a formal complaint will automatically trigger a detailed investigation. Clients are advised to contact the caseworker/supervisor and seek an explanation and “*informal resolution*” before making a formal complaint.
15. Clients wanting to dispute a bill have other rights. If the concern only relates to fees a formal complaint may not be required. A client may be entitled to object to a bill by applying to the Court for an assessment of the bill under Part III of the Solicitors Act 1974. This right may be exercised without raising a complaint. It is a separate entitlement provided by law. Typically this right exists when a client is personally liable to pay a bill, or in legal aid cases if a client has a financial interest, meaning is liable for a legal aid contribution or is affected by the Statutory Charge or the Solicitors Charge.
16. If all or part of a disputed unpaid bill is determined to be valid the Company is entitled to charge interest. This is governed by our terms of engagement. Accordingly every effort should be made to minimise additional charges by resolving disputed bills swiftly, and by informal resolution.
17. Once the Company’s 2 stage internal complaints handling procedure (step 1 - informal and step 2 - formal complaint) are exhausted a client is entitled to take step 3 and escalate a complaint by appealing to an external independent body, either the Legal Ombudsman or an Alternate Dispute Resolution (ADR) body. An ‘*appeal*’ to the Legal Ombudsman is permitted for 6 months from the end of step 2 - ‘*formal complaint*’ stage. 6 months is a

strict time limit imposed by the Legal Ombudsman rules. The clock ticks from the date of the CHO's final report which ends step 2 – formal complaint stage. An extension of the 6 month time limit can only be granted by the Legal Ombudsman and will depend upon exceptional circumstances. Contact details for the Legal Ombudsman are set out at the end of this note.

18. The Legal Ombudsman scheme rules were changed on 1.4.2023, and time limits modified. The Legal Ombudsman will not accept a complaint for investigation outside of important time limits which are;

- Until 8 weeks after a complaint is made (time for internal complaints handling).
- After 6 months from date of final report regarding a formal complaint.
- After 1 year from the act or omission complained about.
- After 1 year from when the complainant should reasonably have known there was cause for complaint.

## 19. **ALTERNATE DISPUTE RESOLUTION**

ADR means Alternate Dispute Resolution, and is an alternate to litigation at Court, and an alternate to an appeal to Legal Ombudsman.

Originally governed by the EU Directive on Consumer ADR from October 2015 but now incorporated into UK law. It is not affected by Brexit.

The Directive, now UK law, refers to “consumers” but because clients of solicitors are regarded as consumers, the Directive applies.

Importantly the law requires that all clients must be advised that;

If a dispute can not or has not been resolved by formal internal complaint handling clients must be advised of other options available, and specifically;

- (a) That an appeal can be made to the Legal Ombudsman.
- (b) That ADR may be an alternate option.

All clients should take note of the following;

*If this Company has not resolved your formal complaint by internal complaint handling you have a right to appeal to the Legal Ombudsman (an independent complaints body, established by the Legal Services Act 2007). You have 6 months from our final response to your formal complaint to do so. But there is a second option.*

*Other independent complaints bodies exist which are competent to deal with complaints about legal services provided both a client and the Company agree to use them. There are lots of approved ADR bodies and some are specialists who may have the experience to understand your concerns and the detailed nature of a dispute. Check at [www.tradingstandards.gov.uk](http://www.tradingstandards.gov.uk)*

*This Company may well agree to ADR. The Company's final decision is dependent upon your wish and the nature of your complaint. Please advise if you want to use ADR and suggest an ADR body of your choice. We will quickly respond to your suggestion or propose another way forward.*

*This Company will not agree to ADR if you have failed to use our internal formal complaints procedure.*

*This Company will not agree to ADR if a complaint has been appealed to the Legal Ombudsman.*

## **20. Termination of Retainer:**

This is an important consideration which may affect complaint handling. General law and the SRA handbook affords guidance on termination of a retainer. A client can end a solicitor's retainer at any time and for any reason. But a solicitor may only end a client's retainer if there is "good cause". The termination of a retainer and complaint handling are quite separate, but an overlap may arise. For complaint handling some important points are set out below.

- a) A complaint is not required if a client simply wishes to terminate the solicitor's retainer. A client is entitled to dispense with a solicitor, and a solicitor must accept that. There is no need for a complaint.
- b) Termination of a retainer is not required if a client simply wishes to complain.
- c) In extreme circumstances a complaint may require termination of a retainer. eg. breakdown in confidence between solicitor and client, the solicitor is unable to obtain proper instructions, or a solicitor/own client conflict arises. Those circumstances may be "good cause" to terminate the retainer. But the complaint itself must still be handled by the CHO even if the retainer is terminated.
- d) Legally aided clients wishing to terminate a solicitor's retainer or transfer to a new solicitor must first obtain approval from the Court and/or the Legal Aid Agency. It is not necessary to make a complaint.

## **HOW TO COMPLAIN**

21. This complaints procedure envisages 3 steps or stages of complaint handling;

- (i) Informal resolution.**
- (ii) Formal complaint.**
- (iii) Appeal - To the Legal Ombudsman or ADR.**

The Company understands that the decision to raise a formal complaint about a professional advisor can be a difficult one. Nevertheless early disclosure of a concern permits a speedy resolution. Delay can erode the solicitor client relationship, allow resentment, an entrenched position and make it more difficult to put matters right. Accordingly informal resolution at step (i) is encouraged.

## **22. Informal Resolution:**

**This is step 1.** The starting point of a complaint.

Simply notify your caseworker or supervisor of your concern. You may also notify the Practice Manager or a Partner. It is best to do so in writing and keep a copy. Explain your concern and how you want things resolved. Ordinarily this should suffice to resolve the concern. All Company personnel are required to facilitate an informal resolution. It is in everyone's interest to resolve a complaint quickly and informally.

## **23. Formal Complaint:**

**This is step 2.** A rigorous investigation will follow.

If a concern is unresolved by informal resolution, you may start our formal complaints procedure by raising your complaint with the CHO & Managing Director, Mr Ash Bhatia. Please note what to do;

- (a) You must complain in writing by letter or by email.
- (b) Mark your communication "*Formal Complaint*".
- (c) Explain your complaint.
- (d) Explain how you want it resolved.
- (e) A letter of complaint must be sent to Bhatia Best Solicitors, 12 Carrington Street, Nottingham, NG1 7FF.
- (f) An email complaint must be sent to [ash.bhatia@bhatiabest.co.uk](mailto:ash.bhatia@bhatiabest.co.uk).
- (g) Do not use any other address or other email for a "*formal complaint*".

Only a communication marked "*formal complaint*" will trigger our internal complaints handling procedure.

## **MORE ON A FORMAL COMPLAINT – STEP 2**

### **WHAT HAPPENS?**

- 24. All formal complaints are handled by the Complaint Handling Officer (CHO).
- 25. Upon receipt of a written formal complaint the CHO will ;
  - (i) Acknowledge the complaint in writing,
  - (ii) Record the complaint in the central register of complaints.
  - (iii) Confirm that the formal complaints procedure has been started.
  - (vi) Provide a copy of this Complaints Guidance Note.
- 26. An investigation will be conducted by the CHO. A period of 8 weeks is permitted to allow internal investigation and complaint handling. The extent of the investigation will depend upon the actual complaint but will typically include;
  - a) Consideration of the complaint. More detailed information may be required eg. a phone call or a personal meeting.
  - b) Analysis of the case file and all electronic and monetary records.

- c) Direct enquiry of caseworkers, supervisors, and external providers.
- d) Other enquiry, internally or externally, sufficient to permit an understanding of the issue(s).

27. If the complaint is upheld the CHO will cause steps to be taken to put matters right. The way forward, actions and timeframes will be notified to the client, and the process managed and overseen by the CHO.
28. If the complaint is not upheld the final report will provide an explanation.
29. The CHO will issue a written final report in response to the complaint. If a client remains dissatisfied then step 3, an appeal to the Legal Ombudsman or a request for ADR is possible.
30. The CHO's final report will be marked to identify it as such, and denote the end of the Company's internal complaints procedure. This is the trigger date for step 3. An appeal to the Legal Ombudsman should be within 6 months from the date of the final report.
31. The Company's central register of complaints will be updated. This is subject to periodic review and trend analysis. In that way lessons can be learned so improvements achieved by appropriate revision of the Company's procedures and training programmes.
32. **Appeal to Legal Ombudsman or ADR**

**This is step 3.** This is the final stage of complaints handling. An appeal to an external independent complaints handling body. The decision of an external appeal body is usually final. If a client remains dissatisfied because a formal complaint is not resolved by the CHO the client may opt to escalate by;

- a) **Option 1:** Appealing to the Legal Ombudsman. It will help LeO and speed things up if you provide a copy of the CHO's final report and your original written complaint. Contact details for LeO are set out at the end of this note.
- b) **Option 2:** ADR. Just write to the CHO and express this preference.

A client must decide between Option 1 and Option 2 and cannot do both.

### 33. **Complaint to Solicitors Regulation Authority (SRA)**

The SRA is the statutory regulator of solicitors.

A complaint can be made to the SRA if you believe that a solicitor has breached the SRA Code of Conduct for Solicitors or the SRA ethical principles. Thus a complaint to the SRA is usually only appropriate in cases of "*serious professional misconduct*".

Most complaints about solicitors relate to poor service, and should be addressed by internal complaint handling and/or sent to the Legal Ombudsman.

The SRA may itself decide to refer a poor service complaint to the Legal Ombudsman.

The Legal Ombudsman may itself refer “*serious professional misconduct*” to the SRA.

## **IMPORTANT CONTACT DETAILS**

### **[A] FORMAL COMPLAINTS**

MR ASH BHATIA – COMPLAINTS HANDLING OFFICER  
BHATIA BEST SOLICITORS  
12 CARRINGTON STREET  
NOTTINGHAM  
NG1 7FF

Email: [ash.bhatia@bhatiabest.co.uk](mailto:ash.bhatia@bhatiabest.co.uk)

Tel: 0333 016 3333

Note: A formal complaint must be addressed or emailed as above.

### **[B] APPEAL TO THE LEGAL OMBUDSMAN**

THE LEGAL OMBUDSMAN  
PO BOX 6806  
WOLVERHAMPTON  
WV1 9WJ

Tel: 0300 555 0333

Email: [enquiries@legalombudsman.org.uk](mailto:enquiries@legalombudsman.org.uk)

Web: [www.legalombudsman.org.uk](http://www.legalombudsman.org.uk)

### **[C] ADR**

Web: [www.tradingstandards.gov.uk](http://www.tradingstandards.gov.uk)

### **[D] COMPLAINT TO SRA**

THE SOLICITORS REGULATION AUTHORITY  
THE CUBE  
199 WHARFSIDE STREET  
BIRMINGHAM  
B1 1RN

Tel: 0370 606 2555

Email: [contactcentre@sra.org.uk](mailto:contactcentre@sra.org.uk)

Web: [www.sra.org.uk](http://www.sra.org.uk)