

## **Response to the OLC draft Scheme Rules**

**William S. Taylor**  
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I am a member of ROCAS (Reform of Complaints against Solicitors). I fully support the two responses by ROCAS and attach these with this personal response.

I would like to add to the ROCAS response to question 4 of the Consultation Covering Paper: draft scheme rules. My additional comments are -

1 Time limits should be the same as those for professional negligence legal action, with an extension for all cases handled by existing entities and the predecessors to existing entities.

2 The OLC 'Consultation covering paper: draft scheme rules' states on page 7 that the Ombudsman scheme will not accept complaints previously considered by one of the existing entities. However the Legal Services Act 2007 does not indicate that complaints previously considered by one of the existing entities cannot be accepted by the OLC. Draft scheme rule 5.7 allows complaints to the existing complaints schemes to be considered by the OLC. The rule says that an Ombudsman may (but does not have to) dismiss a complaint to a predecessor complaints scheme.

No justification is provided by the covering paper for this policy position. I feel that the policy of not accepting complaints previously considered by existing entities is wrong, because of the reasons given in the ROCAS response to question 4.

In addition I consider that complaints handled by existing entities should be accepted because -

- a) the rules relating to complaints by existing entities are different to those of the OLC. For example beneficiaries of estates and trusts could not complain to the Office for the Supervision of Solicitors (OSS), but can complain to the OLC.
- b) the existing entities may have handled the complaints poorly. The OLC has been set up to replace these entities because of the problems with their complaints handling. The existing entities do not investigate thoroughly, and award inadequate compensation to complainants.
- c) the existing entities have failed to refer clear evidence of misconduct to the professional bodies in some complaints they handled.

As the ROCAS response states, the Legal Services Ombudsman does not re-investigate the majority of complaints referred from the existing entities due to lack of resources.

If complainants have documentary evidence there is no good reason why complaints handled by existing and previous entities should not be accepted by the OLC. Refusal to accept these complaints is contrary to regulatory objectives of protecting and promoting the public interest and improving access to justice.

My own case provides an example of the reasons why complaints handled by existing entities should be considered by the OLC. I made a complaint to the Solicitors Complaints Bureau (SCB). The complaint was about poor service and misconduct by a solicitor in the handling of my father's estate and mother's will trust following my father's death in 1985.

The SCB completed handling the complaint in 1999. I referred the complaint to the LSO who finished dealing with it in 2002. I received some compensation from the solicitor and the Office for the Supervision of Solicitors (OSS), the successor to the SCB, amounting to a total of £700. This compensation was totally inadequate having regard to the amount of the solicitors' charges which were over £10000. I think these charges were very high. Another solicitor estimated the cost of dealing with the relatively simple estate and will trust as £1500 in 1985.

In addition to the charges by the solicitor I complained about, other solicitors involved in the administration work on my behalf charged a total of around £5000. I believe that the poor handling of the work also resulted in litigation that cost me about £14000. The work on the estate and will trust was only completed in 1997, twelve years after my father died. I had to start legal proceedings against the solicitor to get him to finish the work.

Some of my complaints were not considered because they related to a period when I was not a trustee of my mother's will trust, although I was a beneficiary. Evidence of the solicitor not complying with a direction of the Supreme Court Taxing Office was not referred as possible misconduct to the Solicitors Disciplinary Tribunal. The solicitor made untrue and unpleasant comments about me to the OSS adding insult to injury.

The LSO agreed with the SCB and OSS handling of the complaint without re-investigating my complaint.

The long time that the solicitor took in handling the estate and will trust, the very poor service and misconduct by the solicitor, and the delays and ineffectiveness of complaints handling bodies in dealing with my complaint, caused me much distress. My confidence in the legal profession was destroyed by my experience.

I think my case shows that it is essential that the OLC accepts cases handled by existing and previous entities in the interest of fairness.

**The OLC has been set up to protect all consumers of legal services. This should include all past as well as present consumers.**