



Consumer Panel Briefing – Third Party Complaints

What is the issue?

The Legal Ombudsman is unable to investigate complaints when the people losing out are not the lawyer's client – these situations are known as third party complaints. There are lots of situations when this can happen, for example:

- Delays or mistakes by the other side's lawyer in a conveyancing transaction
- Lawyers hired by corporate clients harassing people over disputed debts
- Poor treatment of victims or witnesses in court, for example an opposing barrister being too aggressive in their questioning style
- Disputes over legal fees when someone agrees to pay the costs of the other side

In 2012-13, the Legal Ombudsman was forced to turn away 2,184 third party complaints. It accepted 8,430 cases over the same period, so this is a significant problem.

The Panel's view

The Panel considers that, in certain situations, third parties should be able to complain to the Legal Ombudsman and obtain a remedy for the harm they suffer. This is because:

- This would be the fair thing to do
- It would not give consumers new legal rights, but simply mean people could use the Legal Ombudsman to obtain redress instead of going to court. In fact, ombudsman schemes in lots of other sectors already consider third party complaints
- The current situation is confusing because sometimes consumers are not treated as the lawyer's client even though the legal work is intended to benefit them. For example, in a remortgage, the lender is technically the client, not the home owner
- Without this right lawyers have a weak incentive to act fairly towards third parties
- Lawyers will carry on making the same mistakes because there isn't the opportunity for them or regulators to learn from complaints to raise standards

The Panel accepts that not every third party complaint should be investigated. Lawyers must act in the best interests of their client and do so robustly. Although a third party may feel uncomfortable or believe an outcome is unfair, the lawyer might not have done anything wrong. However, the current system needs to be changed because it excludes all third party complaints and so doesn't allow the Legal Ombudsman to consider legitimate complaints.

What is the Consumer Panel doing about it?

In June 2012, the Panel published a report on third party complaints which considered the issue in detail. We followed this up by responding to a Legal Ombudsman consultation on its Scheme Rules – this is the document which sets out when consumers can use its service. We recommended that third party complaints should be eligible for investigation in future, except for specific types of case which would be excluded, for example because they might impair the proper administration of justice.

In June 2013, we visited the Legal Ombudsman's offices to look at third party complaints the organisation recently received but had to reject. The Panel published case studies based on this work in September 2013. We wanted to provoke debate about which third party complaints should be investigated by bringing real life examples to this important debate.

The Legal Ombudsman decided not to make or propose any changes for the time being after examining this issue as part of its Scheme Rules consultation. Instead, it agreed in principle that these rules could in future include specific circumstances where it would be able to look at complaints from third parties. It committed to develop a specimen list of complaints which could be eligible for consideration and to form a steering group to make progress. The Panel will be a member of the steering group, which is due to start work soon.

For more information:

[The Consumer Panel's report on Third Party Complaints, June 2012](#)

[Response to Legal Ombudsman Scheme Rules Consultation, June 2012](#)

[Third Party Complaints Case Studies, September 2013](#)

About the Legal Services Consumer Panel

The Legal Services Consumer Panel is a central feature of a regulatory framework in England and Wales which is designed to transform the legal services market around the needs of its users. Created by the Legal Services Act 2007 we are an independent arm of the Legal Services Board. As a permanent, discrete champion for consumers we have an essential responsibility to ensure that regulators are able to consider and act on the user perspective.



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