



Ministry of **JUSTICE**

Claims Management Services Regulation

Complaints Handling Rules 2006

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Complaints Handling Rules 2006

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Claims Management Services Regulation

Complaints Handling Rules 2006

Introduction

1. These rules are made by the Regulator pursuant to Rule 8 of the Conduct of Authorised Persons Rules 2006.

Application

2. All businesses (including sole proprietors) authorised under the Act are required to comply with these rules in respect of activity regulated under the Act. The rules do not apply to other activity that a business may undertake.

Timing

3. These rules come into force on 6 April 2007. These rules do not require an authorised business to take retrospective action in respect of business that has already commenced or complaints that have been initiated, nor do they require the conduct of business rules to be applied retrospectively. However, the rules must be complied with in full from 6 April 2007. For example, a complaint initiated on or after 6 April 2007 must be handled in accordance with these rules even if the subject complained about predated the legislation coming into force. The rules on time limits and record keeping apply to complaints that were on going on 6 April 2007.

Requirement to have internal complaints handling procedures

4. A business must have in place and operate appropriate and effective internal complaints handling procedures (which must be in writing) for handling any expression of dissatisfaction, whether oral or written, and whether justified or not, from or on behalf of a complainant about that business's provision of a regulated claims management service.
5. A complainant is a person using a service regulated under the Compensation Act 2006.
6. The internal complaints handling procedures must provide for:
 - a) receiving complaints;
 - b) responding to complaints;
 - c) the appropriate investigation of complaints; and

- d) notifying complainants of their right to complain to the Claims Management Regulator where relevant.
7. When deciding what constitutes appropriate complaints handling procedures, a business should have regard to:
- a) the type of business it undertakes;
 - b) its size and organisational structure;
 - c) the nature and complexity of the complaints it is likely to receive; and
 - d) the likely number of complaints it will receive and have to investigate.
8. A business must take reasonable steps to ensure that all relevant employees (including employees of exempt introducers) are aware of the business's internal complaints handling procedures and must endeavour to ensure that they act in accordance with them.

Particular matters for which procedures must make provision

9. A business's internal complaints handling procedures must make provision for:
- a) a complainant to be able to make a complaint by any reasonable means (letter, telephone, e-mail or in person);
 - b) complaints to be investigated by a person of sufficient competence who, wherever possible, was not directly involved in the matter which is the subject of the complaint;
 - c) the person charged with responding to complaints to have the authority to settle complaints (including the offering of redress where appropriate) or to have ready access to someone who has the necessary authority; and
 - d) responses to complaints to address adequately the subject matter of the complaint and, where a complaint is upheld, to offer redress.

Timescale for dealing with complaints

10. A business may decline to consider a complaint that is made more than six months after the complainant became aware of the cause of the complaint.
11. A business must send a written or electronic acknowledgement of a complaint within five business days of receipt, giving the name or job title of the individual handling the complaint for the business, together with details of the business's internal complaints handling procedures.
12. A business must, within four weeks of receiving a complaint, send the complainant either:
- a) a final response; or

- b) a holding response, which explains why it is not yet in a position to resolve the complaint and indicates when the business will make further contact (which must be within eight weeks of receipt of the complaint).
13. A business must, by the end of eight weeks after its receipt of a complaint, send the complainant either:
- a) a final response; or
 - b) a response which:
 - i explains that the business is still not in a position to make a final response, gives reasons for the further delay and indicates when it expects to be able to provide a final response; and
 - ii informs the complainant that he may refer the handling of the complaint to the Claims Management Regulator if he is dissatisfied with the delay.

Publicising Procedures

14. A business must:
- a) refer a client in writing to the availability of its internal complaints handling procedures before signing a contract with a client; and
 - b) publish details of its internal complaints handling procedures on its website if it has one, supply a copy on request to a complainant, and supply a copy automatically to the complainant when it receives a complaint.
15. A business's literature and correspondence relating to complaints should be in clear and plain language.

Providing Redress

16. Where a business decides that redress is appropriate, it must provide the complainant with fair compensation for any acts or omissions for which it was responsible and comply with any offer of redress which the complainant accepts.
17. Appropriate redress will not always involve financial redress. It may involve an apology, an offer to redo the work or the refund of a fee. Where financial redress is deemed appropriate, it may include a reasonable rate of interest.

Reference to the Claims Management Regulator

18. In making a final response, or if a complaint is not resolved after eight weeks, a business must indicate to the complainant that if he is not satisfied he may refer the handling of the complaint to the Claims Management Regulator, and must give the complainant the address, phone number and email address of the Regulator.

Record Keeping

- 19.** A business must maintain records, and provide to the Regulator, on request, details of all complaints handled under these rules.

Explanatory note

1. In establishing its internal complaints handling procedures, a business may wish to take account of BS ISO 10002:2004 “Quality management – customer satisfaction – Guidelines for complaints handling in organisations”.
2. The rules do not seek a uniform or complex procedure. Some small businesses that only refer cases to solicitors may never have a complaint. Where this is likely to be the case the written procedure may reasonably be a single page.
3. In the case of a sole proprietor or other very small business it is accepted that the person who should consider the complaints will be the person about whom a complaint is made.
4. In due course the Regulator will ask to see the written procedures of at least those businesses that have contracts with clients, and will require records of complaints and how they have been dealt with.
5. The powers of the Regulator on complaints are set out in Regulations 28 and 29 of Compensation (Claims Management Services) Regulations 2006 – which are, for ease of reference, reproduced at the end of this document.

Extract from

The Compensation (Claims Management Services) Regulations 2006

COMPLAINTS

Review by the Regulator of complaint handling

28. —(1) If—

- (a) a client of an authorised person is dissatisfied with the handling by the authorised person of a complaint by the client; or
- (b) an authorised person and a client cannot agree on how to resolve a complaint by the client that the authorised person has failed to comply with the rules or a code of practice;

either the client or the authorised person may ask the Regulator to review the authorised person's handling of the complaint.

(2) For the purpose of such a review, the Regulator may direct the authorised person in writing to give the Regulator information or documents (being information or documents concerning either the handling of the complaint, or the conduct of the matter out of which the complaint arose) to the Regulator, and the authorised person must give the information or documents to the Regulator without delay.

Directions of the Regulator about complaints handling and related matters

29. —(1) This regulation has effect in relation to a case where the Regulator is satisfied that—

- (a) a complaint against an authorised person is well-founded; or
- (b) the authorised person should alter its claims management procedures.

(2) The Regulator may give the authorised person a direction about the further handling of the complaint.

(3) The Regulator may also give the authorised person a direction about the future handling of complaints, or about any other aspect of the authorised person's business that relates to the provision of claims management services.

(4) Before giving a direction under paragraph (2) or (3), the Regulator—

- (a) must notify the authorised person of any direction that the Regulator proposes to give, and the reasons for giving it;
- (b) must give the authorised person a reasonable opportunity to make submissions in relation to the proposed direction; and

must take any such submission into account in deciding whether to give the direction.