

FIRST-TIER COMPLAINTS HANDLING SURVEY 2017

INTRODUCTION

1. We run an annual survey to gain insight into the types of complaints made to firms and the way firms deal with them.
2. We develop learning points from the survey information to help our regulated community avoid complaints as far as possible and deal successfully with complaints when they occur.
3. We asked regulated members with one or more complaints during the 12 months before October 2016 to complete the survey. There were 186 respondents.

RESULTS and KEY LEARNING POINTS

Complaints by type and information given to clients at instruction

4. Figure 1 shows the type of complaints received. The top complaint is 'Dissatisfaction with outcome or advice'. This has been the top complaint since 2014. 'Delay' has consistently been the second highest complaint, save for 2013 when it was the highest.

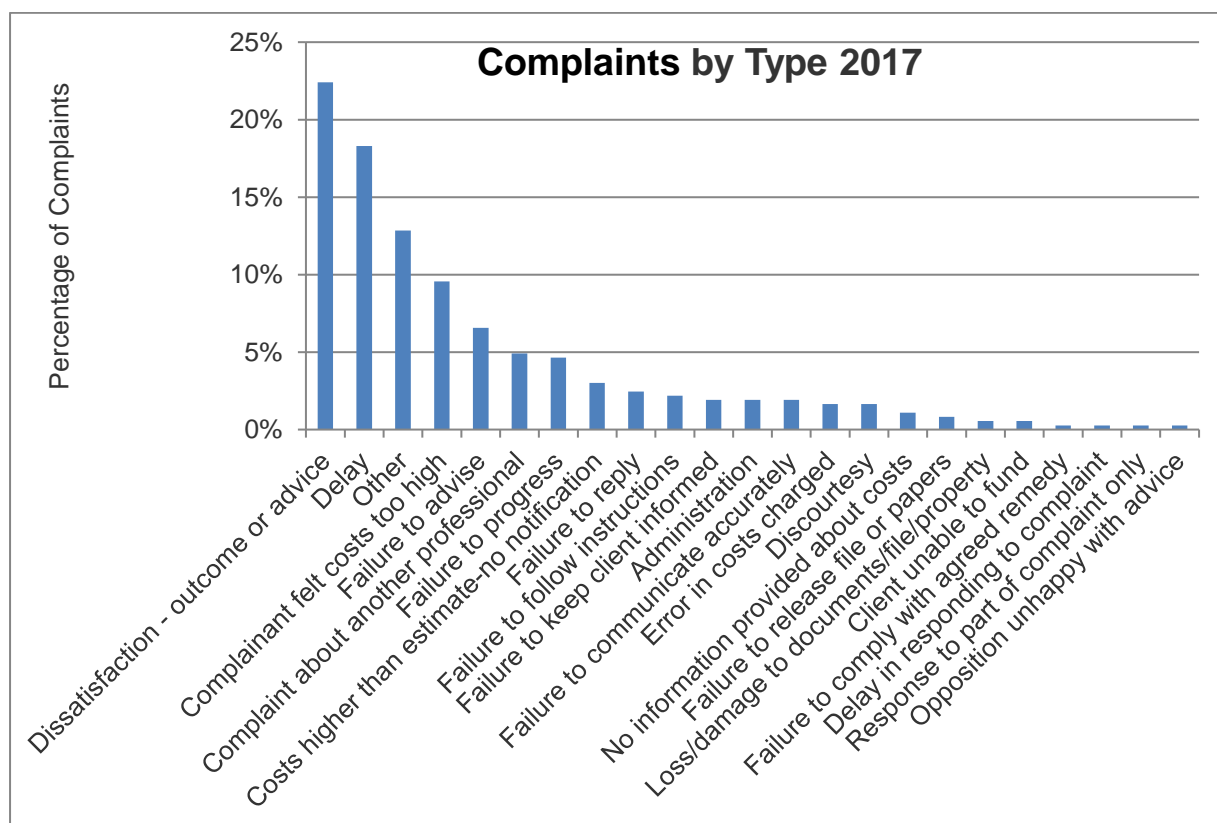


Figure 1: Complaints by Type 2017

Information given to clients at instruction

5. Figure 2 shows that while key information is regularly given to clients at instruction, there is still room for improvement in providing initial information on 'how long the matter is likely to take', 'likely overall cost' and 'level of service to expect'.

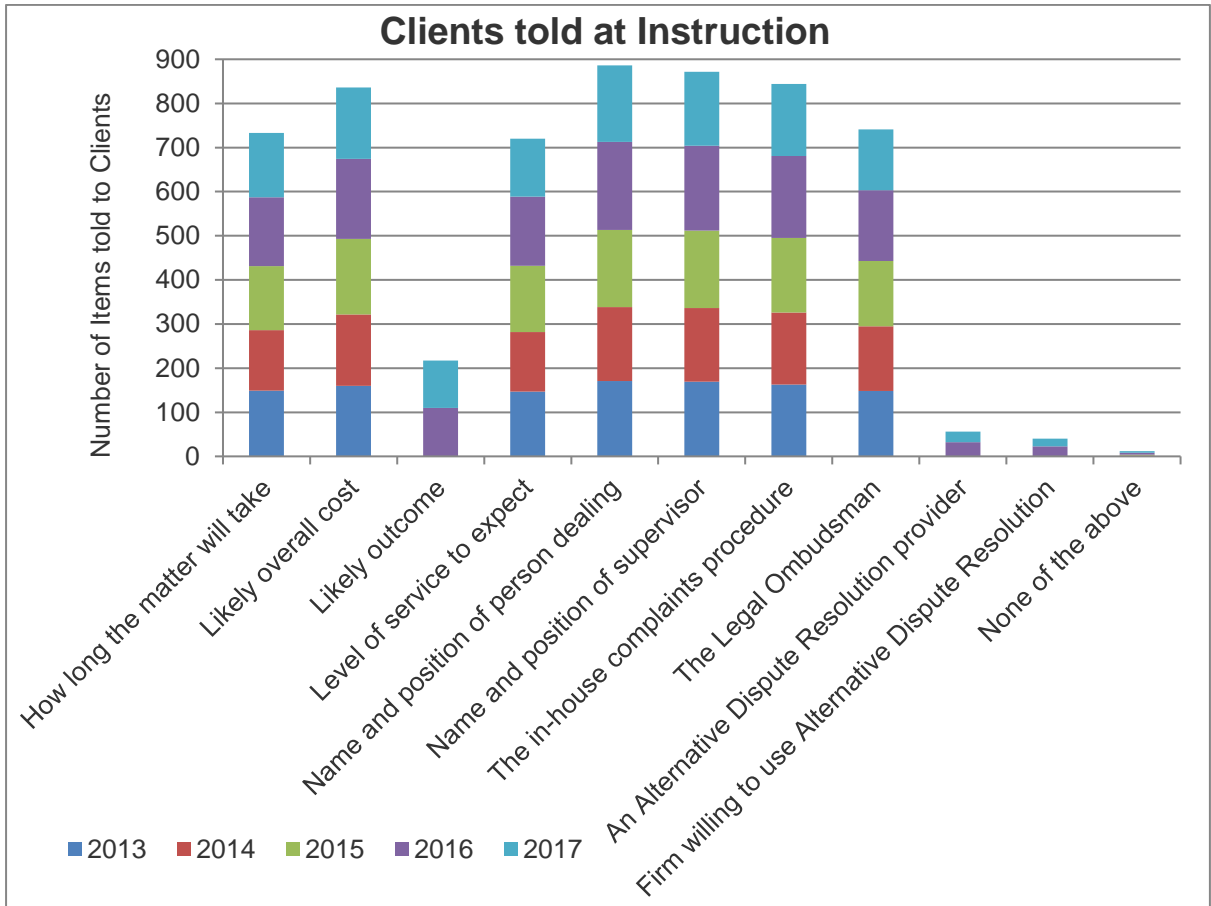


Figure 2: What clients are told at instruction by year

6. The 'likely outcome' category was only added to the survey last year. Figure 3 shows that in 2016, 110 clients were informed of the likely outcome of their legal matter compared with 200 who were told the name of the person dealing with it. In 2017, 107 clients were informed of the likely outcome of their legal matter compared with 173 who were given the name of the person dealing with it.

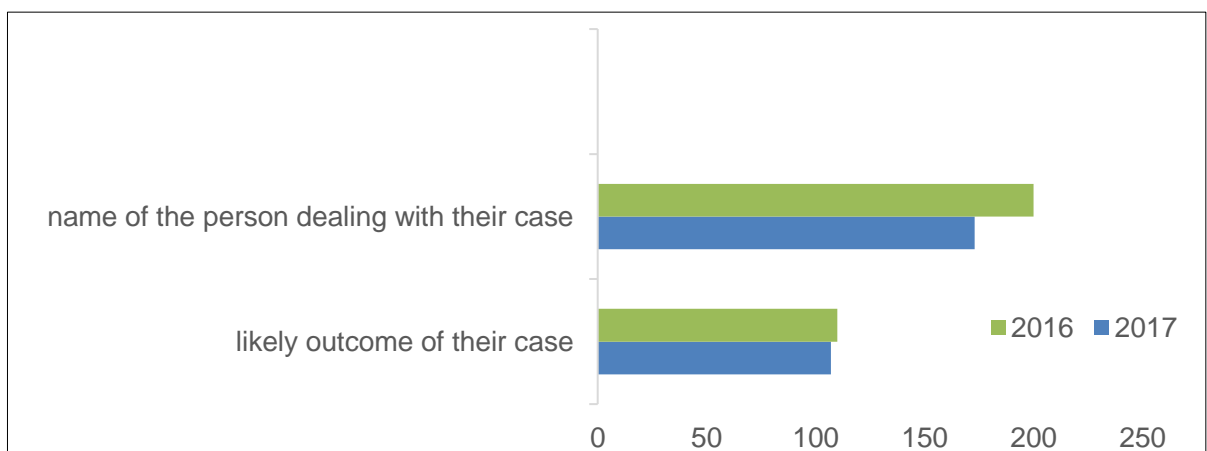


Figure 3: Comparison of: "likely outcome" and "name of person dealing with the case"

7. **LEARNING POINT 1:** It may never be possible to satisfy all clients, but the more that can be done from the outset to manage an individual's expectations, the less likely that the case will attract a complaint. At the beginning of a case, it is vital to explain:
 - the likely cost, together with information about why this might change and how any change in cost will be communicated,
 - the likely outcome and or likelihood of success,
 - how long it will realistically take to conclude.

8. **LEARNING POINT 2:** As a case progresses, it is essential to keep communicating with clients about these key areas of information. This is especially important when initial information provided changes. A person is less likely to feel the need to complain if they have received updates, together with explanations for changes.

Complaint Handler

9. The data indicates that most complaints (76.5%) continue to be handled by a designated complaints officer or partner/supervisor within the firm. This is good practice as it provides a level of impartiality for the complainant, as well as suggesting that most firms do not expect an individual to deal directly with a complaint made against them. It should be noted though that almost 16% of individuals handled complaints made against themselves (an increase of 5.3% since 2013), although it is recognised that in a very small firm, this may be unavoidable. Figure 4 shows the percentage breakdown of complaint handler by year.

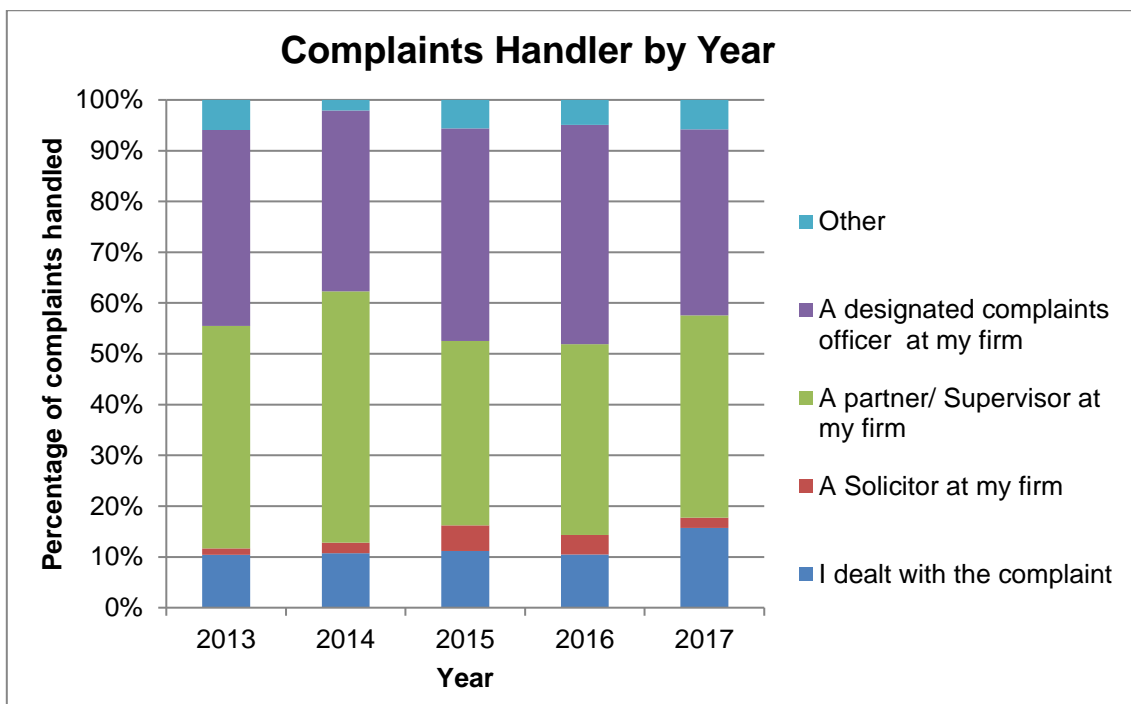


Figure 4: Complaints handler by year

10. **LEARNING POINT 3:** We recommend that, wherever possible, a colleague or supervisor investigates a complaint. This is of benefit to both the client and individual complained about.

Internal Complaints Procedure

11. The respondents who provided their opinion on their firm’s internal complaints procedure viewed it more favourably than their clients who had given them feedback about the procedure. It should be noted that the number of responses to these two questions differed (177 members’ views compared with 30 on client feedback).

12. For example, Table 1 shows that while 93% of members thought that their internal complaints procedure gave ‘clear instructions on what the complainants should do’, only 47% of clients agreed. Although this is only a small sample, it suggests that clients do not always find the complaints procedures clear and easy to understand.

| Quality of Complaints Procedure (2017) | Member No. | Member % | Client No. | Client % |
|--|------------|----------|------------|----------|
| Clients find it easy to understand | 165 | 93% | 16 | 53% |
| Give clear instructions on what the complainants should do | 165 | 93% | 14 | 47% |
| Clients say it gives clear timescales for each stage of the complaints procedure | 144 | 81% | 13 | 43% |
| Clients say it allows for complaints to be made by telephone/in writing/face to face | 135 | 76% | 13 | 43% |
| Number of Respondents | 177 | - | 30 | - |

Table 1: Comparison of Member and Client views on internal complaints procedure

13. **LEARNING POINT 4:** It is good practice to ask for feedback on a firm’s complaints procedure, including from individuals who are not clients. This informs how necessary changes might be made, for example, to make the wording clear.

14. **LEARNING POINT 5:** It is also essential that the complaints procedure covers all the areas required by the Legal Services Board (LSB) and the Legal Ombudsman (LeO). Help with this can be found on our [website](#)¹. It is worth noting that when a complaint is referred to the LeO, they will include an assessment of the quality of the first-tier complaints handling process as part of their investigation. The quality of the complaint handling process will also influence their decision on awarding costs. A clear and comprehensive complaints procedure should be provided to clients at the outset.

¹CILEx Regulation first-tier complaints handling guidance
http://www.cilexregulation.org.uk/~media/pdf_documents/cilex-regulation/consumer/first_tier_complaints_handling_guidance_020816_final.pdf?la=en

Referrals to the Legal Ombudsman

15. The LSB places a clear requirement on the majority of CILEx professionals to provide information about the LeO service to clients “at the time of engagement or at the next appropriate opportunity, whether or not a complaint has been made or is in prospect”.
16. This requirement is reflected in Principle 5 of the Code of Conduct which requires individuals regulated by CILEx Regulation to “inform your client fully as to your complaints procedure including their right to refer a complaint to the Legal Ombudsman or CILEx Regulation as appropriate”. This requirement applies to:
- regulated individuals working in a firm regulated by another regulator;
 - Chartered Legal Executives (Fellows) working in their own non-regulated firm;
 - firms regulated by CILEx Regulation.
17. Service complaints for regulated individuals working in their own non-regulated firms should be directed to CILEx Regulation.
18. The survey results show that 87% of question respondents stated that their clients are told about the LeO at instruction. Clients are additionally told about the LeO at interim stages as the case progresses, including 41% when a client makes a complaint and 23% when a client’s complaint is rejected. However, in three instances, the client was not informed at any point about the LeO.
19. The views of the members who responded on their internal complaints procedure and the LeO information differed to the views of their clients. The number of responses to these two questions differed (177 members’ views on the procedure compared with 30 on client feedback).

| | | |
|--|---|-------|
| Member’s view of internal complaints procedure: | Provides contact details for the LeO | 88.7% |
| | Clear timescales for making a complaint to the LeO | 68.9% |
| Client feedback on internal complaints procedure: | Easy to locate the LeO contact details | 33.3% |
| | Clients understand they can complain within 8 weeks | 50.0% |

Table 2: Comparison of members and clients’ views on firms’ internal complaints procedures

20. Although the sample was small, the information in Table 2 suggests that clients do not always find it easy to locate the details of the LeO within the complaints procedure literature.
21. **LEARNING POINT 6:** The internal complaint procedure must be clear with easy to find information about how and when clients can contact the LeO. This is both a requirement of the LSB and good practice.

Outcome of complaints referred to the Legal Ombudsman

22. There were 39 responses confirming that their complaints had been referred to the LeO. Table 3 shows that 33 of the clients had been told of the LeO's services by the member and six had not.
23. In terms of outcome of the LeO's investigation, in 32 of the 39 cases (82%), the LeO agreed with the firm's findings about the complaint. This included four out of the six referrals made even through the client had not been told about the LeO by the member's firm. The LeO only disagreed completely with the first-tier complaints findings in two cases out of the 39 referred. These figures are also shown in Figure 5 below.

| | Complainant told about the LeO | Complainant not told about the LeO |
|--|--------------------------------|------------------------------------|
| Number of survey question respondents | 101 | 85 |
| Number of complaints referred to the LeO | 33 | 6 |
| The LeO agreed with our first-tier complaints findings | 28 | 4 |
| The LeO partially disagreed with our first-tier complaints findings | 4 | 1 |
| The LeO completely disagreed with our first-tier complaints findings | 1 | 1 |

Table 3: Comparison of outcomes of the LeO investigations

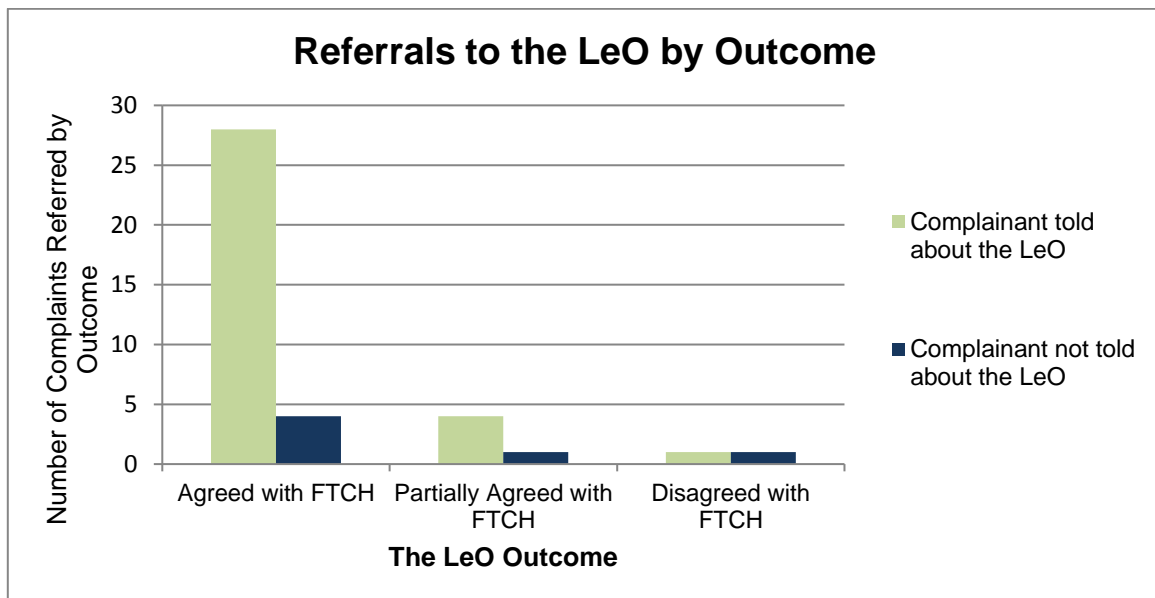


Figure 5: Comparison of outcomes of the LeO investigations

24. **LEARNING POINT 7:** The LeO is impartial to both complainer and legal firm. A referral of a complaint to the LeO does not automatically mean that they find in the client's favour. However, the LeO considers both the nature of the actual

complaint and the quality of the firm's handling of the complaint in the investigation. This includes information about the right to complain to the LeO being provided to the client at the beginning of the case.

AND FINALLY

25. The analysis and learning points above are intended to help members develop best practice in both the provision of good service and, where a complaint occurs, in the handling of first-tier complaint investigation.

26. CILEx Regulation has guidance² on first-tier complaints handling. Look out for reminders about complaints in Regulation Matters³ in the coming months.

² CILEx Regulation first-tier complaints handling guidance
http://www.cilexregulation.org.uk/~media/pdf_documents/cilex-regulation/consumer/first_tier_complaints_handling_guidance_020816_final.pdf?la=en

³ Regulation Matters
<http://www.regulationmatters.uk/>