

The General Council of the Bar

Guidance notes on the complaints form

Please read these notes before filling in the complaints form.

Please fill in the form in black or dark blue ink and in CAPITAL LETTERS or typed. This is because we may have to photocopy it a number of times. Please also make sure you sign and date the form.

We can provide information about our service in different formats (for example, large print). We can also make reasonable adjustments if you need help making your complaint. Please let our complaints department know what your particular needs are, and we will try to help.

Here is a summary of what we (The General Council of the Bar) can and cannot do.

We can:

- investigate complaints against barristers (whether practising or not);
- take disciplinary action against barristers;
- award compensation of up to £5000 or reduce fees payable (or both), but only in cases of inadequate professional service; and
- answer your general questions about barristers – phone our complaints department on 020 7242 0082 for help or advice.

We cannot:

- investigate complaints against solicitors (these should be referred to the Consumer Complaints Service of the Law Society – the address is over the page);
- investigate complaints against judges, even if they are barristers (these should be referred to the Department of Constitutional Affairs – the address is over the page);
- normally accept complaints, unless they are in writing on the correct signed form (if you are not able to fill the form in, please contact our complaints department for advice); or
- except in exceptional circumstances, investigate complaints more than six months after the events arose. (We strictly follow this rule, particularly in allegations of inadequate professional service.)

Questions 1 and 2: Personal details

We need your name and address. If you are complaining on behalf of somebody else, we also need their name and address. We also need to have a letter from them showing that they agree to you making the complaint for them. We do not usually contact you by phone, but a number (for use in normal office hours) can be useful.

Please tell us as soon as possible if your address (or that of the person you are making the complaint for) changes.

We will acknowledge all letters we receive and will try to do so within one week of receiving them. Please do not phone us to find out whether or not we have received your correspondence until at least 10 working days after you posted it.

Question 3: The barrister's details

It is essential that you provide the correct name of the barrister who dealt with your case so that we can correctly identify him or her. The solicitors who instructed the barrister should be able to give you this (and the address). If they cannot or will not help you, the court that heard the case may have it on their records. We cannot look into any complaint unless we have or can find out the name of the barrister. Even if you do not have the barrister's full address, it is helpful if you can tell us what you know about where he or she practises.

If you are complaining about more than one barrister, you should fill in a separate form for each barrister unless your complaint is exactly the same for all of them.

We cannot investigate complaints about solicitors or judges. If you want to complain about a solicitor, please contact:

The Consumer Complaints Service
The Law Society
Victoria Court
8 Dormer Place
Leamington Spa
Warwickshire CV32 5AE.

If you want to complain about a judge, please contact:

The Department of Constitutional Affairs
Selborne House
54/60 Victoria Street
London SW1A 6QW.

Questions 4 to 7: Court cases

We need to know some background to the case, in case we need to contact the court or the people involved.

If you are complaining about the barrister who represented the other side in your case and you are including material which you do not want to be copied to the other side, please tell us clearly which material should not be sent to the barrister, solicitor or any other person involved in the case. If we cannot send relevant material to the barrister for his or her comments, we may not be able to deal with the complaint. If your case is continuing, or if you are appealing the result of a case, we will normally delay considering your complaint until the case or the appeal has ended. If you are appealing against the result of a case, it would be helpful if you could provide a copy of the 'Grounds of Appeal'. You should have a copy of these, but if you do not your solicitors will have a copy.

Questions 8 to 11: Details of your solicitor or other intermediary

We would like to know if you have instructed your barrister yourself or if you have used a solicitor or other 'intermediary' (which is anyone who instructs a barrister on behalf of a client). If you have instructed your barrister yourself, we need to know whether this was under the 'public access scheme' or the 'licensed access scheme'.

If you have used a solicitor or other intermediary, we will normally write to the solicitor or intermediary who instructed the barrister, sending a copy of the complaint and any enclosures and asking for their comments. We cannot investigate complaints about solicitors or other intermediaries.

If you have also complained about your solicitor, it may speed up our investigation if we are able to see relevant material relating to that complaint. For that reason, we ask you if we may contact the Consumer Complaints Service at the Law Society for details.

Question 12: Raising the complaint with the barrister or solicitor

Many complaints can be dealt with at an early stage if you tell the barrister or your solicitor that you are not happy with the service they have provided. In less serious cases, you may find it helpful to ask your solicitor to take it up with the barrister's 'chambers' (offices). Chambers must have an internal complaints procedure to deal with those matters. However, if your complaint cannot be dealt with in this way, you should then complain to us. If you have raised your complaint with the barrister or the solicitor (or both), it would be helpful if you could provide copies of the relevant correspondence.

Question 13: Delay

It can be difficult to identify the facts if a lot of time has passed since your complaint arose. This will affect the chances of us being able to investigate your complaint properly. As a result, you should make your complaint as soon as possible.

If we receive your complaint more than six months after the events you are making a complaint about, the Complaints Commissioner has the power to dismiss your complaint unless there is a good reason for the delay. It will not normally be enough simply to say that you did not know there was a complaints system.

Whatever the reason for the delay, we will not be able to award compensation or reduce your fees if the behaviour you are complaining about took place:

- six months after the event relating to inadequate professional service; or
- before 13 July 1996. This is the date on which we formally agreed that we could award compensation.

Question 14: Details of the complaint

Please explain briefly what you want to complain about. You should remember that it must be something that a barrister has done or failed to do. We cannot deal with complaints against solicitors, judges, the police or court officials. The leaflet 'How To Complain About A Barrister' gives details of the sorts of issues that give rise to complaints. We do not need a detailed history of the case, but it will help us to deal with the complaint more quickly if you tell us:

- what the case was about;
- when the event you are complaining about arose;
- what the barrister did or did not do; and
- why you believe this was wrong.

Question 15: Dealing with the complaint

The leaflet 'How To Complain About A Barrister' explains how we can deal with complaints. Although it may not affect the final decision, it would be helpful to know how you would ideally like us to sort out the matter. Please remember that compensation is only available in cases of inadequate professional service, not in cases of misconduct.

You should be aware that we will pass any documents you provide on your complaint will to the barrister or barristers you have complained about.

Question 16: Financial loss

If you have suffered any financial loss as a result of the barrister's behaviour, you should set it out on the form. This question is mainly relevant to an assessment of how serious the complaint is. It does not mean that we will have the power to compensate your loss. We can award compensation up to £5000, but only in cases of inadequate professional service and only if you were the barrister's client. Similarly, we can only order your barrister to reduce their fees if you were the barrister's client. We cannot help you with claims for negligence – only the courts can deal with these. As a result, you should get advice from an independent legal adviser.

Question 17: Other information

If there were any witnesses who can support your complaint or who might be able to help us in other ways, please let us know their names and addresses and the part they played. You may want to send us an informal statement from them. We will not necessarily contact everyone you name.

Question 18: Extra sheets of paper

If the form does not provide enough space for you to give details of your complaint, please send us extra sheets of paper. You should tell us how many you have enclosed so that we can be sure we have received them all. Please write on only one side of each sheet so that it is easier to photocopy them.

Question 19: Enclosures

It is helpful if you can provide documents to support your complaint. You are responsible for giving us the evidence to support your complaint. If you are complaining about a barrister's opinion, the terms of a settlement or that he or she did not follow instructions, it is helpful if you could include copies of the relevant documents. It would also be helpful if you could provide a copy of the solicitor's instructions to the barrister. Please also include any documents supporting a claim that you have suffered financial loss. Please do not send original documents, only photocopies, as we cannot be held responsible if they are lost. We cannot copy material for you.

Please only include documents that are relevant and that deal with the barrister's behaviour or your loss. It helps if you list the documents you are enclosing so that we can check that they arrive safely. All documents must stay on our files so we cannot return them.

Revealing confidential papers in proceedings involving children

If your complaint is about a case involving children and the court was sitting in private, you will need to get the permission of the court to give us information relating to the proceedings, or a copy of a document the court holds.

However, you do not need the permission of the court to send us a copy of a court order, unless the court has said that its order must not be published.

You should ask the court to give you permission “to disclose information and documents relating to these proceedings to the General Council of the Bar for the sole purpose of investigating a complaint”. You should also ask for permission for us to reveal information and documents relating to the proceedings to the Legal Services Ombudsman, in case you want to ask for a review of our decision.

When you send us the information and documents, you must also send us a copy of the court order giving you permission to do so. We cannot look at information or documents that are sent to us without the court’s permission, and will have to return them to you without reading them.

If you have any questions, you should contact our complaints department.

Questions 20 to 21

It is helpful to know if you have contacted us before to so that we can check our records for the other documents we have.

Finally, please sign and date the form.

Monitoring

We are committed to making sure that we treat all complaints fairly and equally. We need to be able to monitor the race and sex of people who make complaints so we can check that our policies are working. To help us with this, please fill in the questionnaire attached to the form. The questionnaire will be separated from the rest of the complaint when it reaches our offices, and we will use the information only for statistical purposes. We will not give it to anyone who we ask to comment or make a decision on your complaint.

If you have any questions about this complaints form or our complaints procedure, please phone our complaints department on 020 7242 0082. You may also download further copies of the complaints form from our website at www.barcouncil.org.uk

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