

## **COMPLAINTS PROCEDURE**

## SECTION ONE – CHANGE CONTROL

On an ongoing basis, these procedures will require amendment to reflect current working practice. Amendments to these procedures must be approved a Director.

Where changes are made, the new version of the procedures will be renamed incorporating the revised version number, e.g. "Procedures version 2." The creation date shown in the document footer must also be amended.

The table below must also be updated on the revised version so that there is an audit trail of changes made. The previous version of the procedures should be maintained for a minimum period of 12 months following the change.

Version Control

Date Changed	Version No.	Summary of Change(s)
March 2015	1.0	New procedures

## **SECTION TWO - INTRODUCTION**

### **Purpose and Objectives**

These procedures reflect the controls and processes within Enjay Claims for dealing with complaints.

Enjay Claims' activities are covered by the Ministry of Justice (the Claims Management Regulator, ("the CMR")) and complaints relating to these activities fall under its jurisdiction. The rules that apply to complaints are the Complaints Handling Rules 2006.

### **What is a complaint?**

The definition of a complaint under the Complaints Handling Rules 2006 for claims-management complaints is:

*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.*

**Put very simply a complaint is the client not being "happy" or not "satisfied" about something which Enjay Claims did or should have done.**

### **Receipt of a Complaint**

Complaints can be received from a number of different sources as follows:

- Verbally – via a telephone call.
- Written – directly from the client either by letter, e-mail or fax.
- Indirectly – from an external source such as a product provider or creditor.

All complaints, either verbal or written, must be investigated and the appropriate action taken.

Enjay Claims' complaints procedures provide the complainant with the opportunity to report his complaint by telephone, letter, email, facsimile and in person.

## **SECTION THREE - DEALING WITH COMPLAINTS**

### **Complaints Register**

All complaints will initially be referred to a director.

Upon receipt of a complaint, the director will add details of the complaint to the Complaints Register (appendix 1). The circumstances of the complaint will be reviewed to determine if the complaint is from an eligible complainant and the line manager will complete the classification details of the complaint in respect of product type, category of complaint and potential redress. At this time, they will also consider if there appear to be any systemic issues and gauge the likely issues with the case.

### **Categorising the Complaint**

The complaint will be categorised in accordance with the following categories:

The categories are:

- Overcharging
- Delays
- Other Admin
- Misleading Advice
- Failure to carry our instructions
- Poor client service
- Misleading advertising
- Disputes over sums/amounts
- Switching/Churning
- Breach of contract
- Arrears handling
- Other

If the complaint falls into more than one category it should be recorded in the category which forms the main part of the complaint.

### **Acknowledgement of the Complaint**

Upon receipt of a complaint, either written or oral, an acknowledgment letter is issued to the client.

- An acknowledgement letter (appendix 2) is to be issued within 5 working days of the receipt of the complaint.
- If any clarification is required in respect of the complaint it should be sought from the client.
- Irrespective of whether the complaint has been made via letter or orally, the acknowledgement letter will state our understanding of the complaint and will invite the complainant to confirm if the statement is incorrect.
- Within the acknowledgment letter, the client is invited to provide details of any meetings and or discussions with the adviser, is requested to provide copies of any paperwork in connection with the complaint and indicate how they would like to see the issues raised being resolved.
- A copy of the “Making a Complaint” leaflet is issued with the acknowledgement letter. (appendix 3).

- The complaints register is updated accordingly to show the date of issue of the acknowledgement letter.

### **Oral Complaints:**

If a client contacts Enjay Claims by phone indicating that he wishes to make a complaint, the individual that takes the initial call will take full details of the complaint, e.g. the client's name and address and general outline of the complaint.

### **Complaints from a third party on behalf of a complainant**

When dealing with a third party about a complaint it will be necessary to obtain a signed letter of authority from the client to enable Enjay Claims to deal with the client's representative.

If a letter of authority has not been received already, one must be sent to the client with the acknowledgement letter, which will ask the client to sign and return the form. Please refer to the sub-section headed "obtaining letters of authority" below.

The investigation can continue pending receipt of the letter of authority. However, no information must be disclosed to a third party until it has been received.

This would mean for example that the final response letter could not be issued to the third party until the authority was received.

As an alternative, the final response letter could be issued to the actual client.

## **SECTION FOUR – INVESTIGATING THE COMPLAINT**

### **General**

When investigating any complaint it is important that the complaints-handler takes a reasonable view based on the balance of probabilities including the relevance of any oral evidence.

This could include for example, consideration of the client's state of health at the time of the sale or event being complained about, or the level of financial awareness or experience the client has, etc.

It is also essential that information is considered from the client's perspective as well as that of the firm's.

All complaints must be dealt with fairly.

This may mean in some instances that a complaint is upheld or redress is made to a client when a strict legal interpretation would not require it, because taking such an approach would not be reasonable or would result in unfairness to the client.

After the reason for the complaint has been established and the investigation has been thoroughly conducted all the evidence will be available to be reviewed.

After reviewing all the evidence the complaints handler will make a decision whether to uphold the complaint or not. The decision and reasons for making the decision need to be recorded on the individual complaint file.

The investigation normally includes:

- a review of the client file in relation to the complaint issues.
- a review of the report received from the staff member.
- a review of product literature for the product in question (where necessary).
- a review of correspondence provided by the client.
- a review of all file notes taken from discussions with any parties to the complaint

It may also be necessary to interview the adviser to progress the investigation of the complaint and clarify particular issues.

Reference should be made to the table overleaf for guidance on the specific areas to be reviewed when investigating the complaint.

***However, although these points provide a general approach, they are aimed at providing guidance and it must be remembered that each individual complaint must be investigated on its own merit.***

### **Determining Compensation**

In determining whether any compensation is due to the client, consideration should be given to the extent of any omissions for which Enjay Claims is responsible together with relevant guidance issued by the CMR or the Legal Ombudsman.

Any calculation of redress must take account of the financial loss suffered by the client. This will be such that it returns the client to the position he would have been in

had the advice/action not occurred, together with an addition for interest over the period (usually from the date of advice to the resolution of the complaint).

Financial loss includes consequential or prospective loss, in addition to actual loss. For example, a complaint may involve an allegation that the complainant may suffer financial loss which has not yet crystallised because of the type of product involved.

Calculation of interest should be at a rate of 8%pa simple interest.

If for any reason there has been a delayed payment or part payment of any redress then a further interest payment will be paid to the client (8% pro rata) to cover the time of the delay and to ensure the client is not put at any financial loss.

Consideration should also be given to what additional action is required on the part of Enjay Claims to maintain goodwill with the client and preserve the business relationship, for example this may take the form of an apology.

### **The Senior Management Decision Letter**

Having undertaken a full investigation of the complaint a final response letter or senior management decision letter must be issued to the client which sets out, in a manner that is clear, fair and not misleading, the investigation of the complaint. (see appendix 4).

The letter must be presented in such a way that the client can easily understand how the decision has been reached on his complaint.

The SMD letter must also state:

1. Outcome
  - Whether the complaint has been upheld or rejected.
  - If rejected, the reasons for doing so.
2. Redress
  - The level of any redress or remedial action that is being offered.
3. Legal Ombudsman Referral Rights
  - That if the client remains dissatisfied with the response, he may refer his complaint to the Legal Ombudsman Service.

### **Other Issues Identified**

Whilst investigating a complaint, there may be issues that are highlighted which need to be recorded as a breach, e.g. it appears that the correct sales process has not been followed.

Should the issues identified have a direct impact on the outcome of the complaint the report on the complaint needs to make reference to them.

Where issues are identified which may have an impact on existing Compliance Procedures or Systems and Controls, details must be recorded within the relevant column of the Complaints Register.

When investigating a complaint it is necessary to analyse what the underlying cause of the complaint was.

This is not only to ensure that the issue is corrected and addressed in relation to the particular client but also to ensure that any problems of a wider or recurring nature are resolved.

This analysis should take account of

1. Identifying the root cause of the complaint;
2. Considering whether the root cause may also affect other processes or products, including ones that have not been complained of;
3. Taking action to correct or prevent recurrence of the root cause.

Consideration should also be given to whether any other clients (including those that have not complained) have been affected by the problem.

Where there is an identified root cause, this should be recorded onto the complaints register.

### **Putting Things Right**

After the investigation of the complaint, the decision whether to uphold the complaint or not and the identification of the root cause, it is necessary to take prompt action in respect of any redress or action required.

Action that may be required could include:

**Redress payment to the client** – ensuring that redress is made promptly  
**The communication of issues** - to relevant individuals within Enjay Claims  
**Make recommendations** - for changes to current practices and procedures.

### **Completing the Investigation**

The 'Complaints Register' is updated accordingly i.e. the date the SMD letter was sent, whether the complaint was upheld or not and the amount of any redress offered.

Where redress is offered, the amount offered is valid for 4 weeks from the date of the 'final outcome letter'.

### **Timescales**

The client must be kept informed of the progress and of the measures being taken to resolve the complaint.

In addition, it is important that the client is aware that their concerns are still being dealt with and they have not been forgotten about.

Enjay Claims will always aim to resolve complaints promptly, however this may not always be possible, if for example historical data is required in order to investigate the complaint.

To ensure that the client is kept informed, if the complaint has not been resolved 4 weeks after receipt, a holding letter (see appendix 5) will be issued, advising the client:



- Of the reasons for the delay and
- Giving an indication of when we hope to be able to respond.

If the complaint has still not been resolved eight weeks after receipt, an eight-week letter will be issued to the client, stating:

- Why Enjay Claims is not yet in a position to provide a final response
- Indicate when the client can expect a final response

The letter will also give relevant referral rights (see appendix 6).

#### Client's Acceptance of Offer

When any offer is made in full and final settlement of a complaint, the SMD letter incorporates an acceptance statement. A request is made for this statement to be signed and dated by the client and returned to Enjay Claims.

Upon the receipt of a signed acceptance statement, payment should be requested.

#### **Receiving complaints directly from the Legal Ombudsman**

Enjay Claims may be notified by the Legal Ombudsman, via letter, of any complaints that have been referred to it by a client. The register is updated accordingly.

This notification is normally after the issue of the SMD and the client is unhappy with the decision. However, notification may also be received when the investigation has not been concluded within the 8 week period or where the client has gone directly to the Legal Ombudsman.

In the latter case, the case should be treated as a new complaint and follow the normal complaints-handling process.

For true referrals, i.e. cases not resolved with 8 weeks and those where the SMD has been issued, an individual reference number is allocated to each case by the Legal Ombudsman – this number needs to be used in all correspondence relating to that case.

The Legal Ombudsman notification usually includes a request for copies of relevant documentation including the final response letter.

Full co-operation must be given to the Legal Ombudsman, including meeting any requests for documentation, adherence to their timescales and complying promptly with any payments or awards in favour of the client.

When the Legal Ombudsman has conducted its initial assessment of the file, it will forward a letter with its findings. Details of the outcome of this initial view must be recorded onto the register.

The complaints-handler must review the recommendations made by the Legal Ombudsman and action accordingly. If Enjay Claims' view differs to that of the Legal Ombudsman then the rationale for this must be communicated to the Legal Ombudsman

Once an agreement has been reached with regards to the outcome of a case, the complaints register is updated accordingly, reflecting the decision of the Legal Ombudsman together with any notes for procedural or systems and controls issues.

## **SECTION FIVE - RECORD KEEPING**

### **General Record Keeping**

A computer based register is held for complaints.

A new entry is made within the register upon the receipt of a new complaint.

The register is updated at each appropriate stage during the investigation of a complaint. This is updated at the time any action is taken.

A file note is compiled to support any action(s) taken during the investigation of a complaint that cannot be demonstrated by any other document(s) held on file.

At all times documentation held within the complaint file is filed in chronological order, with the latest documents being filed on top.

Any complaint will be classed as being "closed" in accordance with the following:

- The complainant accepts any offer we make and payment is made.
- If we have received no further response from the client after six months from the date of issue of the SMD
- When the SMD has been issued.

All records are to be kept for a minimum of 18 months from the date of receipt of the complaint.

## **APPENDICES**

No.	Description
1.	Complaints Register
2.	Acknowledgement Letter
3.	Making a Complaint Leaflet
4.	Senior Management Decision Letter
5.	Holding Letter
6.	8 Week Letter

APPENDIX 1 – COMPLAINTS REGISTER

Customer	Complaints Category	Description of Complaint	Verbal / Written	Date Comp Rec'd	Acknowledgement letter due	Acknowledgement letter sent	4 week due	Date 4 wk issued	8 week due	Date 8 wk issued	Case update comments	Next Action Date	Case-handler	Employee subject of complaint	Product	Provider	Potential Redress	Date SMD letter issued	Upheld Y/N	Upheld against individual Y/N	Time taken	Redress offered £	Date Accepted	Date Paid	Amount Paid	Post outcome	Legal Ombudsman (LeO) ref date	LeO case ref.	LeO resolution date	Did LeO agree with us? Y?N	Issues arising

## APPENDIX 2 – ACKNOWLEDGEMENT LETTER

Dear

### RE: - Your (Product type) Complaint

I write following receipt of your complaint which was received by us on (DATE).

I am sorry that you have felt it necessary to complain. We will now undertake a thorough review of your complaint but I would also like to tell you of the following key information:

- (a) If our review has not been completed within 4 weeks of our receipt of your complaint, we will write to you informing you why we are not yet in a position to resolve the complaint and give you an indication of when we will make further contact.
- (b) On completion of our review we shall write to you informing you of the outcome.
- (c) I have enclosed a copy of our internal complaints procedure, "Making a Complaint" for your information.

Our understanding of your complaint is as follows:

- (Each issue raised by the client needs to be stated)

We will base our review of your complaint on the above. If our understanding is not correct, then please contact us to advise accordingly.

To help me investigate your complaint thoroughly, could you please provide the following: - (delete as applicable)

- Details of any meetings and/or discussions with the adviser concerned (unless there is nothing to add from your original complaint);
- Copies of any paperwork you hold in connection with your complaint;
- Indicate how you would like to see the issue/s being resolved;
- Complete and return the enclosed authority form/s to enable us to obtain further information about your policy/ies.

Please note that any delays in supplying the above information may prevent us from progressing your complaint further.

I have enclosed a pre-paid envelope for your use and would be grateful if you could provide the above within **seven days** to enable me to address your concerns. (Delete if not applicable)

May I take this opportunity to thank you for your co-operation in this matter.

I hope that this will clarify matters for the time being if you have any further enquiries regarding your complaint please do not hesitate to contact us on (telephone number).

Yours sincerely,

Name and Title

Enc: Making a Complaint  
(Letter of Authority) (Delete if not applicable)  
(Pre Paid Envelope) (Delete if not applicable)

### **APPENDIX 3 – MAKING A COMPLAINT LEAFLET**

Enjay Claims will do everything in its power to make your experience of dealing with us a good one with a positive outcome for all concerned. In the unlikely event that something goes wrong please contact us by:

Telephone: 0800 6127958

Email: [info@enjayclaims.co.uk](mailto:info@enjayclaims.co.uk)

Letter: Enjay Claims, Hall Farm Nursery, Church Lane, Upminster, Essex, RM14 3QH

or in person

1. We promise to investigate your complaint diligently and address the subject matter
2. Complaints will 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
3. We assure you that we will respond from the appropriate level within our organisation to resolve your complaint and where the complaint is upheld to offer redress
4. We reserve the right to decline a complaint that is made more than six months after the complainant became aware of the complaint
5. We will send you a written or electronic acknowledgement of a complaint within five business days of receipt and tell you the name or job title of the individual handling the complaint, together with details of our internal complaints handling procedures
6. We will send you a copy of our internal complaints handling procedure on receipt of your complaint.
7. If we haven't resolved your complaint within 8 weeks of receipt or you are not satisfied with our response you can refer it to the Legal Ombudsman, whose contact details are:

8. Legal Ombudsman, PO Box 6804, Wolverhampton, WV1 9WG.  
[www.legalombudsman.org.uk/cmc](http://www.legalombudsman.org.uk/cmc)  
Email: [cmc@legalombudsman.org.uk](mailto:cmc@legalombudsman.org.uk)  
Call: 0300 555 0333



## **APPENDIX 4 – SENIOR MANAGEMENT DECISION LETTER**

Dear (Name of Complainant)

### **RE: Your (Product Name) Complaint**

Further to our previous correspondence, I confirm that we have now completed our review of your complaint.

Our understanding of your complaint was:

- (Each issue raised by the client needs to be stated)

Having reviewed the circumstances of your complaint, I have established that:

- (Free Format)

(Option – Need paragraph 1 or 2)

#### **(1. UPHELD – then remove this title)**

On the basis of the above, we agree that it should be upheld and we are pleased to offer you the sum of £\*\*\*\* (amount offered to be put in words) to reimburse the financial loss we believe you have suffered. This amount has been calculated as follows:

#### **(2. NOT UPHELD – then remove this title)**

Having reviewed your concerns, we are sorry to inform you that we are not upholding your complaint.

We appreciate that this will come as a disappointment to you, but we hope that the above information explains the reasons for our decision.

#### **(EX-GRATIA PAYMENT – This should form part of the “Not Upheld” paragraph if an ex-gratia payment is being made – then remove this title)**

As a gesture of goodwill we [make an ex-gratia payment/other action]

#### **(PARAGRAPH TO BE INCLUDED WHERE AN OFFER IS MADE)**

Should you wish to accept this offer please sign and date the enclosed copy letter and return it to us in the envelope provided.

We hope that you will be satisfied with our review of your complaint but if not, you may refer this matter to the Legal Ombudsman Service at:

Legal Ombudsman, PO Box 6804, Wolverhampton, WV1 9WG.

Telephone: 0300 555 0333. E-mail: [cmc@legalombudsman.org.uk](mailto:cmc@legalombudsman.org.uk)

Website: [www.legalombudsman.org.uk/cmc](http://www.legalombudsman.org.uk/cmc)

Please note that you have 6 months from the date of this letter to refer your complaint to the Legal Ombudsman Service, or you may lose that right.

If you have any queries please do not hesitate to contact us on

Yours sincerely

**Name and title**

**(Include this paragraph where an offer is made)**

I/We (client's name) accept the sum of £\*\*\*\*\* in full and final settlement of all claims I/we have or may have against Enjay Claims and its agents arising out of, or in connection with this matter.

Signed \_\_\_\_\_

(Clients name)

Dated \_\_\_\_\_

## **APPENDIX 5 – HOLDING LETTER**

Dear (Insert Complainants Name)

### **RE: Your (Product Name) Complaint**

Further to our previous correspondence, I am sorry to inform you that we have been unable to complete our review of your complaint within the four week period. Please accept our apologies for this delay, which has been caused by (insert information).

Please be assured that we are continuing to deal with your complaint and hope to be able to complete our review by (Date).

If you have any further enquiries regarding your complaint please do not hesitate to contact us on

Yours sincerely

**Name and title**

## **APPENDIX 6 – 8 WEEK LETTER**

Dear (Insert Complainant's Name)

### **RE: Your (Product Name) Complaint**

Further to our previous letters, I regret to inform you that we have been unable to fully complete our investigation into your complaint within the 8 week period.

Please accept our apologies for this delay, which has been caused by (reason for the delay).

I appreciate that you will be disappointed with this delay, however please be assured that we are continuing to deal with your complaint and hope to be able to send you our report by (date).

However, if you are not satisfied with the progress of our review you may refer your complaint to the Legal Ombudsman Service at:

Legal Ombudsman, PO Box 6804, Wolverhampton, WV1 9WG.

Telephone: 0300 555 0333. E-mail: [cmc@legalombudsman.org.uk](mailto:cmc@legalombudsman.org.uk)

Website: [www.legalombudsman.org.uk/cmc](http://www.legalombudsman.org.uk/cmc)

Yours sincerely

Name and Title