



An tÚdarás Rialála
Seirbhísí Dlí
Legal Services
Regulatory Authority

Independent Complaints Handling

*Complaints
about solicitors
and barristers*

REPORT 2 ~ 2020

*From 7 March 2020
to 6 September 2020*

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Foreword by the Chief Executive Officer



I am pleased to introduce the second bi-annual report of 2020 into the operation of the new independent complaints function of the Legal Services Regulatory Authority.

The LSRA has now been receiving and investigating complaints about solicitors and barristers for almost a year, and this report documents trends and statistics for the past six months.

The period covered in this report coincides with the Covid-19 pandemic and the lockdown that was introduced in March 2020 and which has had a dramatic impact on the way we all live and work. Any organisation reporting on its operations over this period will see March 2020 as a fault line after which working arrangements and operations generally were subjected to unprecedented stresses and changes.

The first year for any new complaints organisation presents an opportunity to test the processes, policies and procedures that were so meticulously planned in the preparation for commencement of operations. It is usually a time for frequent and intensive collaboration of staff to explore how the new systems are operating and where efficiencies might be found. Every complaint received and processed and every interaction with the public or with legal practitioners is an opportunity to test how we are doing business. Whilst we have been able to accomplish this work and to review and improve our processes over this period, this has been made all the more difficult due to the necessary Covid-19 restrictions.

As with our first five months of operations, we have been busy in the period covered in this report also. The LSRA has dealt with roughly the same volume of queries and complaints in this six month period as we did in the first five months. This is despite not having access to our office, and with all staff, many of whom were only newly recruited, working remotely from home.

The LSRA's Complaints and Resolutions Unit were contacted by e-mail or by phone on 1,271 occasions with requests for information on the complaints process. A total of 605 complaints files were opened in the reporting period. Over half, 346 complaints, related to alleged misconduct, which is broadly defined in the Act and includes an act or omission involving fraud or dishonesty, or which is likely to bring the profession into disrepute. A further 213 complaints alleged that the legal services provided were of an inadequate standard, while 46 related to alleged charging of excessive costs.

The same themes that we saw emerge in the first five months of operations are now more firmly established. Communication is again a key feature of most complaints. Complainants continually raise the issue that they were not adequately informed by their legal practitioner as to the cost and time or the risks involved in taking or defending legal proceedings. Probate and wills continue

to attract complaints from dissatisfied executors and beneficiaries and we have received further complaints in relation to the non-payment of barristers' fees by solicitors.

Once again, the LSRA has seen an encouraging number of complaints being resolved at an early stage. This is due primarily to the efforts of legal practitioners to engage with the new complaints system, reflect on the complaints that have been made and attempt to repair and mend their

relationships with their clients. As I have stated previously, this is both encouraging and to be encouraged and is something we intend to build on in 2021 and beyond.

The LSRA will continue to review what lessons can be learned across all of the complaints received and will, through these reports and other means, also continue to provide information that we hope is useful to both consumers and legal practitioners.

Dr Brian J. Doherty
October 2020

Introduction

The Legal Services Regulatory Authority (LSRA) is required under section 73(1) of the Legal Services Regulation Act 2015 (the Act) to report on the performance of its complaints function at intervals of no greater than six months. This is the second such report in respect of the period from 7 March to 6 September 2020 inclusive.

The LSRA began receiving and investigating complaints on 7 October 2019. Our first report was in respect of that initial period, covering the five months from 7 October 2019 to 6 March 2020. The LSRA is responsible for the regulation of legal services by legal practitioners and also for ensuring the maintenance and improvement of standards in the provision of such services. Legal practitioners are practising solicitors and barristers.

Under the Act, the objectives of the LSRA include protecting and promoting the public interest, protecting and promoting the interests of consumers relating to the provision of legal services, encouraging an independent, strong and effective legal profession and promoting and maintaining adherence to the professional principles of the legal profession. The professional principles referred to require legal practitioners to act with independence and integrity, act in the best interests of their clients, maintain proper standards of work, comply with such duties that are rightfully owed to the court and comply with their duties of confidentiality to their clients.

The purpose of these reports is to inform consumers, legal professionals and the wider public about the matters that we investigate, the issues and behaviour that commonly give rise to complaints, and the outcomes of complaints that are made to us. In doing so, it is hoped that there will be increased consumer awareness about these issues. It is also hoped that legal practitioners find the reports useful in identifying the types of acts or omissions that can lead to complaints and ensuring that their delivery of legal services is of the highest standard possible.

To that end, this report contains a summary of our independent complaints process, a summary of the nature and types of the complaints that we have received, as well as a series of case studies based on anonymised complaints received since 7 March 2020. As before, we hope that these case studies will be of particular use to both legal practitioners and consumers of legal services in understanding the nature of the LSRA's complaints handling and the lessons that can be learned from the complaints we receive.

Independent Complaints Handling

The LSRA began receiving and investigating complaints relating to solicitors and barristers (collectively referred to as legal practitioners) on 7 October 2019.

Under the independent complaints handling regime as set out in Part 6 of the Act, the LSRA became responsible for complaints which previously were made to the professional bodies for solicitors and barristers – the Law Society of Ireland and the Bar of Ireland respectively.

Prior to the introduction of the LSRA's complaints handling function, the Law Society investigated complaints in relation to solicitors based on the statutory framework set out in the Solicitors Acts 1954 to 2011.

Prior to the introduction of the LSRA's complaints handling functions, complaints in respect of barristers were not governed by statute. The Bar of Ireland, through the Barristers Professional Conduct Tribunal, does however remain responsible for investigating complaints in respect of acts or omissions that took place prior to the relevant complaints sections of the Act coming into force i.e. misconduct by a barrister that is alleged to have occurred prior to 7 October 2019.

Both the Law Society and the Bar of Ireland will also continue to investigate any complaints that were made to those organisations prior to 7 October 2019 until they are concluded.

What types of complaint can the LSRA deal with?

The three grounds for complaints under the Act are:

- that the legal services provided by the legal practitioner were of an inadequate standard;
- that the amount of costs sought by the legal practitioner was excessive; or
- that the legal practitioner performed an act or omission which amounts to misconduct under the Act.

Misconduct is broadly defined in the Act and includes an act or omission which involves fraud or dishonesty or which is likely to bring the profession into disrepute. The provision of legal services which are inadequate to a substantial degree or the seeking of grossly excessive costs can also be considered misconduct under the Act.

Who can make a complaint to the LSRA?

The complaints system – including who can make a complaint – differs depending on the specific grounds of complaint.

Complaints of inadequate services and excessive fees

Complaints about inadequate legal services or excessive costs (not fees) can be made to the LSRA by either the client of a legal practitioner or a person acting on behalf of a client.

Complaints in connection with services or charges must be received by the LSRA within three years of the act or omission, or within three years of the client becoming aware of the act or omission (or from when they ought reasonably to have become aware of the act or omission).

Complaints of misconduct

Any person can make a complaint to the LSRA where he or she believes there is evidence of misconduct on the part of a legal practitioner. There is no statutory time limit for complaints relating to alleged misconduct.

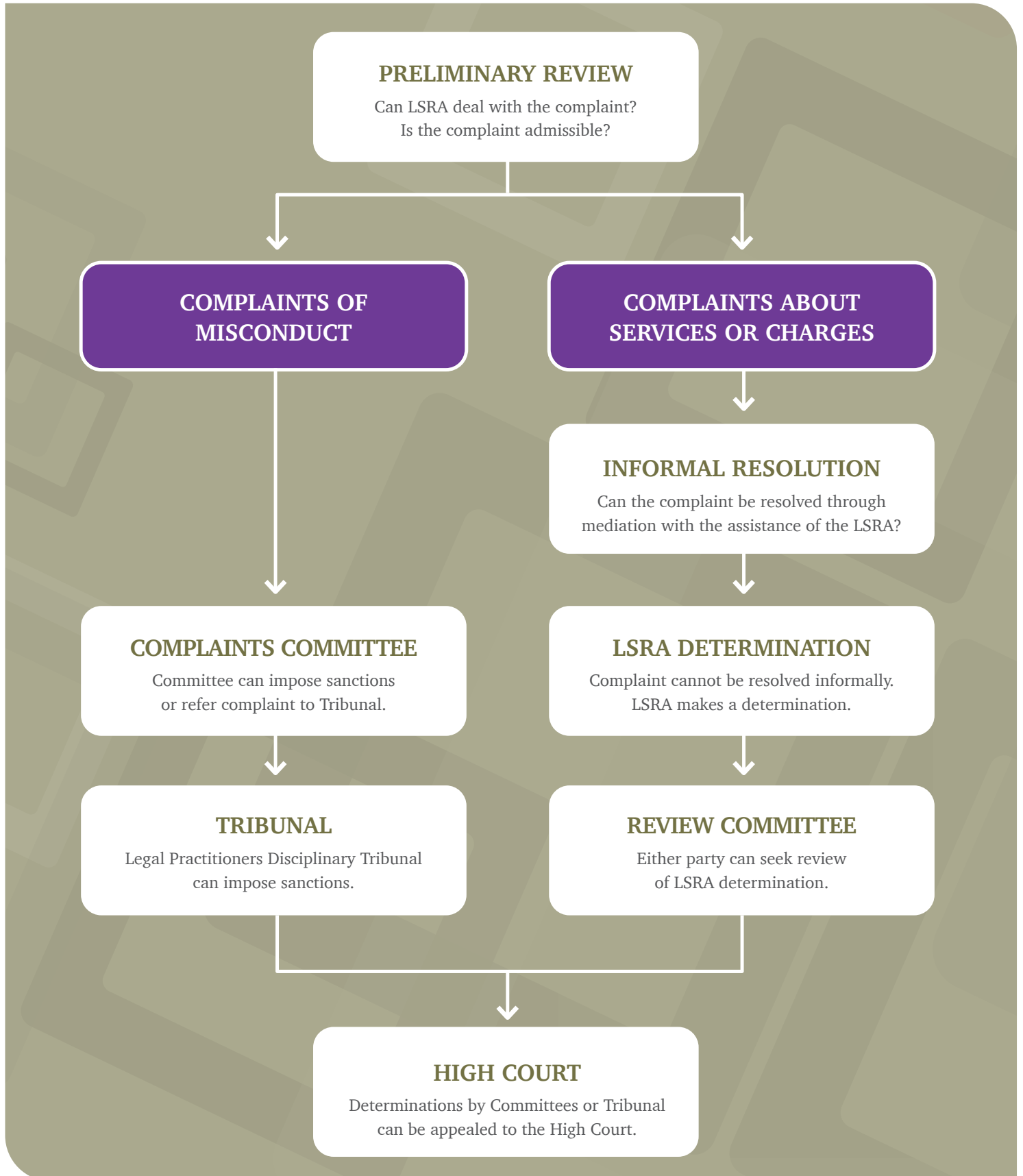
How to make a complaint

Complaints must be made to the LSRA in writing and they can be submitted by post or email. A complaint form is available on the LSRA website for download, along with information guides for the assistance of both consumers and legal practitioners. Complainants are encouraged to use the complaint form where possible.

As the LSRA is independent in the operation of its functions, our complaints staff cannot advise complainants about the nature and content of their complaint or indeed whether or not to make a complaint. However, LSRA staff are available to assist in answering any questions about the complaints process and are available by telephone during the hours listed on our website.

Should anyone need assistance in making their complaint they should consider contacting the Citizens Information Service. There is a link to the Citizen Information Service website on the LSRA website to locate the nearest centre, as well as links to the Free Legal Advice Centres and the National Advocacy Service.

Complaint Journey



Number and Nature of Complaints Received

During the six-month reporting period from 7 March to 6 September 2020, the LSRA received a total of 1,271 phone calls and e-mails requesting information and/or complaint forms.

A total of 822 files were opened initially as queries. Following an assessment of these files, a total of 605 were then categorised as complaints. For a file to be categorised as a complaint, it means that the query received by the LSRA meets the definition in the Act of a complaint and contains enough information so that it can be processed by the LSRA's complaints team. Of the 605 complaints received in the reporting period, a total of 587 related to solicitors and 18 related to barristers.

The largest category of complaints received in the current reporting period related to alleged misconduct. Of the 605 complaints received, 346 (57%) were in respect of alleged misconduct. A total of 213 complaints (35%) related to alleged inadequate legal services, and a further 46 (8%) came under the category of alleged excessive costs.

A total of 169 complaints were closed in the reporting period, and of the closed complaints, 96 (57%) were deemed to be inadmissible, and 73 (43%) were closed pre-admissibility. Of the 73 files closed pre-admissibility, 23 (32%) were withdrawn and 50 (68%) were resolved.

In relation to misconduct, there are a number of specific acts or omissions by legal practitioners that may be considered as constituting misconduct in the Act. Where complaints fall into those categories they are recorded as such. The majority of misconduct complaints received in this reporting

period were however of a more general nature, which we have classified in this report as "other". An example referred to in this report is complaints of alleged rudeness on the part of practitioners. We intend to address this in more detail in our next report.

Comparison with first reporting period

A detailed breakdown of these statistics are set out in the Statistical Breakdown of Complaints section of this report.

The statistics for the current reporting period show a similar pattern to those received in the first reporting period. In the first five months of our complaints handling, a total of 636 complaints were received, compared with 605 in the current period. In terms of the type of complaints received, a total of 238 complaints of inadequate legal services were received in the first reporting period, compared to 213 in this period. Allegations of excessive costs accounted for 56 complaints in the first reporting period, compared to 46 in this period. A total of 342 complaints of alleged misconduct were received in the first reporting period, compared to 346 in this period. The number of complaints from persons who are beneficiaries of estates was exactly the same, at 88, in both periods.

Preliminary review for admissible and inadmissible complaints

The Act requires the LSRA to conduct a preliminary review of all complaints to determine whether or not they are admissible. As set out above, of the total number of 169 complaints closed, 96 (57%) were deemed to be inadmissible.

During this preliminary review, information can be sought by the LSRA from the complainant to ensure that the LSRA has a full understanding of the issues about which the complainant wishes to complain. The LSRA provides full details of the complaint, including any documentation submitted by the complainant, to the legal practitioner who is given 21 days to respond to the complaint. Legal practitioners are encouraged to provide a full response to the allegations made and to provide any relevant evidence that they may have at this stage. It is often necessary to seek further information from the complainant and/or from the legal practitioner in order to ensure that the LSRA has sufficient material upon which to base its decision in relation to the admissibility of a complaint.

In essence, this means that the LSRA gathers evidence from both the complainant and from the legal practitioner prior to the complaint being considered for admissibility under the provisions of the Act.

The LSRA continually analyses complaints in order to understand the reasons for them being deemed to be inadmissible. The proportion of closed complaints deemed to be inadmissible has gone down from 74% in the previous reporting period to 57% currently. The LSRA will continue to use this analysis to help consumers to understand what they can complain about, and to set realistic expectations about our role and remit.

Four categories of inadmissible complaints

Over this period, our analysis shows that the majority of complaints that have been found by us to be inadmissible fall into one category, that of “without substance and foundation”.

Of the 96 inadmissible complaints, 83 (87%) fell into this category. This is slightly up from 81% of all inadmissible complaints in the first reporting period.

The two other main categories of inadmissible complaints are those that are deemed to be “out of time” or previously determined. In this reporting period, a total of 11 inadmissible complaints fell into these two categories. These accounted for 11% of the total number of inadmissible complaints in the current reporting period, down from 17% in the first reporting period. In addition, a total of two complaints (2%) were found to be frivolous or vexatious, which is the same proportion as in the first reporting period.

Complaints without substance or foundation

Many of the complaints found to be inadmissible under this category were made about solicitors who were not acting for the person who brought the complaint.

The LSRA can generally only investigate complaints about a solicitor or barrister that are made by, or on behalf of, the client of that solicitor or barrister. This rule does not apply to complaints that allege misconduct, which can be investigated by the LSRA even where no client-practitioner relationship exists. On investigation, where there is found to be no substance to the allegation, these complaints are deemed to be inadmissible. This scenario was a dominant feature of the first five months of the LSRA's complaints handling and it continues to be so.

The LSRA continues to work hard to raise awareness of what it can and cannot investigate. If you are considering making a complaint about a legal practitioner who is not acting as your solicitor or barrister, you should identify the practitioner in your complaint and clearly set out the specific conduct that forms the basis of your complaint.

“Out of time” and previously determined complaints

There are time limits for the submission of certain complaints to the LSRA. Complaints which fall outside these time limits are therefore considered to be “out of time”. In addition, the LSRA cannot investigate complaints that have already been determined by the Law Society of Ireland or the Bar of Ireland. The Act specifically prohibits the LSRA from determining a complaint to be admissible where the act or omission complained of is the “same or substantially the same” as that which was the subject of a previously determined complaint. This means that, in most cases, if the Law Society or the Barristers Professional Conduct Tribunal have previously determined a complaint, the LSRA must determine that complaint to be inadmissible.

Informal resolution of complaints

The Act places informal resolution at the heart of the LSRA’s complaints handling process. Once a complaint is deemed to be admissible and relates to inadequate services or excessive fees, the Act requires the LSRA to invite the parties to resolve matters informally if possible. This is sometimes referred to as mediation.

Informal resolution methods range from telephone mediation provided by the LSRA’s trained staff by way of conference calls, to face-to-face mediation, or the appointment of an external mediator. The nature of the informal resolution will depend on the nature of the complaint and what the parties agree to.

In compliance with the terms of the Mediation Act 2017, the LSRA’s qualified staff are affiliated to the Mediators’ Institute of Ireland and are fully trained to deal with this aspect of the legislation. The mediation is quite separate to the investigation and determination of the complaint, which is effectively placed on hold to allow the mediation process to take place. Mediation can, therefore, result in the informal resolution of the issue which is subject of the complaint.

We made the point in the first report that some complaints were being informally resolved between the parties directly at a very early stage in the complaints handling process and that was to be encouraged. As set out above, a total of 50 complaints were resolved at the pre-admissibility stage, up from 36 in the previous reporting period. Where a complaint is not resolved in this early pre-admissible phase and where it is deemed admissible, we will invite parties to agree to informal resolution where appropriate. A number of complaints are currently being mediated through that process. However we are finding that the informal resolution between the parties is also continuing post admissibility, often prompted by the receipt of our letters inviting the parties to mediate. In some cases often prompted by the receipt of our letters inviting the parties to mediate. It appears that significant numbers of complaints

will continue to be resolved in this way both pre and post admissibility, and informally between the parties directly. This has been a very positive feature of our operations to date.

Determination of complaints

If not resolved, complaints relating to inadequate services or excessive fees are determined by the LSRA Complaints and Resolutions Unit.

Should the LSRA determine that the legal services provided by a legal practitioner have been of an inadequate standard, the LSRA can direct the legal practitioner to:

- Rectify the issue at their own expense or at the expense of their firm;
- Take such other action as the Authority may specify – the cost of which should not exceed €3,000;
- Transfer any documents relating to the issue to another legal practitioner nominated by the client;
- Pay to the client a sum not exceeding €3,000 in compensation for any financial or other loss suffered by the client.

Should the LSRA determine that the amount of costs sought by the legal practitioner was or is excessive, the LSRA can direct the legal practitioner to:

- Refund, without delay, all or some of any amount already paid by the client to the legal

practitioner; or

- Waive, all or some of the amount billed.

The LSRA can also decide that the costs sought were not excessive and that the service delivered was not inadequate and therefore make no direction.

Before any determinations can be made, complaints must go through the pre-admissibility phase in which information is sought from both parties, and then be considered for admissibility. When a complaint is determined to be admissible, the LSRA must then attempt to informally resolve the matter. These processes can take some time to complete and in most cases are still on-going. Partly for that reason, and partly as a result of the successful resolution of complaints, we have not yet made any determinations. We will however address this aspect in more detail in our next report.

Review Committee review of LSRA determination

Once the LSRA has made a determination of a complaint, the legal practitioner or complainant can request for it to be reviewed by the Review Committee.

The Review Committee is an independent committee. It is composed of three persons, two of whom are lay persons and one of whom is a legal practitioner. The Review Committee has been fully established and will be ready to commence its statutory functions as soon as the LSRA has made determinations on complaints and reviews have been sought.

Complaints Committee – misconduct complaints

All complaints of alleged misconduct are referred to the Complaints Committee for adjudication. The Complaints Committee is an independent committee. It has a majority of lay members, and a lay chair. The Committee can refer matters on to the Legal Practitioners Disciplinary Tribunal or impose directions themselves including:

- Directing the legal practitioner in relation to completing the legal services;
- Directing the legal practitioner to participate in a professional competence scheme;
- Directing the legal practitioner to waive or refund fees;
- Directing the legal practitioner to comply with undertaking(s);
- Directing the withdrawing or amending of advertisements made by the legal practitioner;
- Imposing monetary sanctions on the legal practitioner;
- With the consent of the legal practitioner, imposing conditions on the practising certificate of the legal practitioner.

The Complaints Committee has been fully established but as yet there are no outcomes to report. Our next report will include statistics relating to the number of meetings of this committee, the numbers of legal practitioners and complainants required to attend, together with details of outcomes reached.

Themes Emerging from Complaints

The LSRA's experience of complaints handling has been broadly similar in this reporting period to the first period, both in terms of the number and nature of complaints received and the emerging themes. We would highlight the following issues:

The importance of communication

In our first report, we emphasised the importance of “clear and timely communication” by legal practitioners with clients and colleagues. This remains an issue with complaints received in the current reporting period. Specific complaints of alleged misconduct relating to failure to communicate remain high, at 17% of all misconduct complaints. Communication failures are also still a major feature in the majority of complaints investigated under all categories. The fact that so many complaints are resolved relatively quickly in our process suggests that had legal practitioners engaged with their clients and responded to emails and calls in a timely fashion, many complaints might have been avoided altogether.

Wills and probate

With regard to complaints of inadequate standards of legal services, the volume of these that relate to probate and the administration of estates has fallen slightly in the current reporting period compared to the previous one. This category has come down from 28% of all complaints of inadequate service to 23%. However, not only do complaints about wills and probate matters still account for a significant

proportion of all complaints received, but these complaints are often very substantial in terms of the amount of material submitted to us. The time expended on these complaints by the LSRA's complaints staff is therefore higher in terms of our overall workload than the statistics would suggest.

The LSRA continues to receive complaints from beneficiaries many of whom are simply frustrated at the length of time an estate is taking to be administered. Responsibility for the administration lies with the executors/administrators, and it is they who are the solicitors' clients. Solicitors act on instructions from and agree any required fees with their clients, the executors/administrators. It is therefore appropriate, in most cases, that the issues raised in the complaint be addressed by the executors/administrators.

Where disputes of this sort arise it may often be necessary for the parties to seek independent legal advice. The LSRA is concerned that there may be an unrealistic expectation among some complainants as to the role and remit of the LSRA and the extent of what can be achieved in the complaints and mediation process. The LSRA will frequently not be in a position to resolve what on investigation is actually found to be a longstanding family dispute.

Solicitors' liens

We have received a number of complaints in relation to circumstances where a client's former solicitor is refusing to hand over to them a file that is urgently required. A failure to hand over files, title deeds etc. when required may constitute misconduct in certain circumstances. In the majority of cases that have come to us as complaints to date, it is clear from the solicitor's response that they are exercising what is called a "lien".

Solicitors have a longstanding common law right to retain all documents in their possession in circumstances where there are fees owed to them. The only exception to this is that solicitors cannot exercise a lien over the will of a deceased party. This issue often arises in court proceedings where there is a change of solicitor. On the termination of instructions, a solicitor is usually entitled to be paid for their work up to that point, and a failure to agree and discharge fees here is likely to in turn delay the transfer of the file to the client. This is an issue that should be discussed with the new solicitor as it is often possible for the solicitors to agree to the transfer of the client's file based upon an undertaking to discharge costs at a later stage.

Alternatively, if a file is required urgently in connection with a court hearing, then an application might be made to the court. As the proper exercise of a lien by a solicitor is a common law right, it does not constitute misconduct.

Non-payment of barristers' fees

The LSRA in this reporting period saw an increase in the number of complaints from barristers against instructing solicitors for non-payment of fees due. From nine complaints in the previous period, these complaints have now more than doubled to 20. The LSRA therefore wants to stress to all solicitors the importance of undertaking an audit of all outstanding fees owed to barristers. Solicitors have a responsibility to ensure that the barristers they instruct are paid. They should also ensure that they communicate with barristers as soon as possible should any issues arise rather than simply leave fee notes unpaid. In this respect, solicitors are reminded of their obligations as set out in paragraphs 8.3 and 8.4 of the Law Society's *Guide to Good Professional Conduct*.

Complaints relating to alleged rudeness

We have received a number of complaints from members of the public as well as other people who work in a court setting, such as expert witnesses and interpreters, alleging that a legal practitioner has been rude and abusive to them or made remarks of a personal or profane nature.

Most practitioners are aware of their obligations to be "honest and courteous in all dealings with third parties" and they are aware that misconduct specifically includes "conduct tending to bring the profession in to disrepute". They may not be aware however that behaving in a rude and insulting manner could have disciplinary consequences in the event that such complaints are upheld, and particularly so if a pattern of such behaviour were to be established.

Case Studies

The following section contains a selection of anonymised case studies based on actual cases dealt with by the LSRA in this reporting period. Details of the cases may have been altered to ensure anonymity, but the cases should serve to illustrate the nature of the complaints received.

An example of a solicitor's lien

Complaint

A complaint was received from a former client of a solicitor who maintained that the solicitor was refusing to provide him with his file. The complainant maintained that his employment case was about to become statute barred and he required the file as he needed urgently to obtain advice from his new solicitor.

Outcome

From the solicitor's response to the LSRA, it became clear that advice had been provided to the former client on what was a quite complex employment law issue, and advice had also been obtained from a barrister (counsel). The complainant had not accepted that advice and had indicated that he intended to instruct another solicitor. The first solicitor then prepared and sent his bill, which had not been paid by the complainant.

The complainant had asked his former solicitor to hand over documents from his file and the solicitor explained that the entire file would be provided on payment of the bill. The complaint was determined to be inadmissible on the basis that the solicitor was entitled to exercise a lien in these circumstances.

Lessons for complainants

If you decide to discharge your current solicitor and instruct a new solicitor, it is permitted in certain circumstances for your solicitor to exercise a lien over your file and not release it until their outstanding fees have been discharged. This is a matter of common law and does not amount to misconduct.

Lessons for practitioners

If you are due fees from a client or former client and you believe that you are entitled to exercise a lien, then you should make sure that you have explained this clearly to your former client. You are not obliged to accept an undertaking from another solicitor in these circumstances, but if you are prepared to do so, you should also make that clear.

Client unable to contact retired former solicitor

Complaint

A former client of a solicitor complained that she was unable to get the title deeds held by the solicitor of a property she owned and wished to sell. The complainant knew that the deeds had been sent to her former solicitor on the discharge of her mortgage many years before and she assumed that this was where they still were. She was unable to make contact with her former solicitor. Following further enquiries, the complainant was shocked to find that the solicitor had closed his firm and retired from practice a number of years ago. As no further information could be obtained, and in some frustration, a complaint was made to the LSRA.

Outcome

On receipt of correspondence from the LSRA, the former solicitor placed the matter in the hands of another local solicitor and the issue was very quickly resolved. This situation is by no means uncommon, but it is not one that would have resulted in a complaint had the solicitor properly wound down their practice.

Lessons for complainants

Solicitors retiring from practice or firms that are closing, merging etc. are obliged to provide contact details to the Law Society. In certain limited situations the Law Society may even hold files from closed solicitors' firms. It is advisable therefore to check directly with the Law Society, as it also holds general information about all solicitors' firms in the country.

Lessons for practitioners

If you are a solicitor leaving practice, you should be aware that you must ensure that the wind down and closure of your firm is dealt with correctly and in accordance with Law Society's Close of Practice Guidelines. These make it quite clear that you cannot retain files, title deeds, wills etc. as these must be either returned to the client (where appropriate) or transferred to another firm. Former clients whose deeds, wills etc. you still retain should be advised of the closure, and the details of any other solicitor assisting with the wind down should be provided to all third parties including the Law Society. Solicitors are reminded that title deeds and wills are the property of the client and should be treated accordingly.

Previously determined complaint could not be reopened

Complaint

A beneficiary of a will made a complaint of alleged misconduct against a solicitor who was the executor of her late father's estate. The complainant alleged fraud and dishonesty relating to a property valuation.

Outcome

On investigation by the LSRA, it became clear that there was in fact a substantial dispute between family members regarding the property. On receipt of the legal practitioner's response it was also apparent to the LSRA that the complaint had already been determined by the Law Society and was therefore found to be inadmissible.

Lessons for complainants

All complaints relating to solicitors are sent by us to the Law Society to clarify whether a determination has previously been made by them. Solicitors will generally also advise the LSRA of this fact in their response. If you have previously made a complaint to the Law Society about the same or substantially the same act or omission and that complaint has been determined by them, the LSRA is prohibited by law from dealing with the complaint and must determine the complaint to be inadmissible.

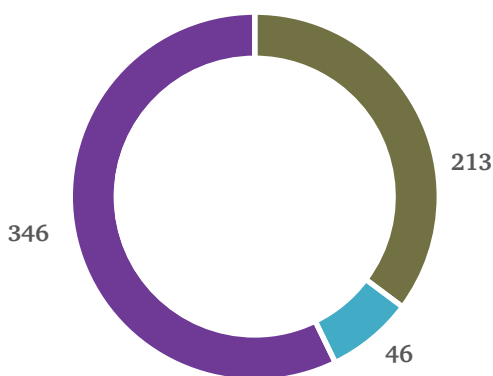
Lessons for practitioners

When determining admissibility of a complaint, the LSRA must be satisfied that "the act or omission to which the complaint relates is the same or substantially the same act or omission" as that which was previously determined. If as a practitioner you believe that to be the case, then you should inform us and provide details. If we are satisfied that that is the case, then the complaint will be determined to be inadmissible and the LSRA file closed. Many practitioners mistakenly believe that the fact that they have been informed of the complaint by the LSRA and invited to respond, means that the LSRA has already decided to re-open the matter. That is not the case. The LSRA is required under the Act to send complaints to the legal practitioners involved prior to determining whether a complaint is admissible or not.

Statistical Breakdown of Complaints

Complaints Overview (7 March – 6 September 2020)	
Complaints opened	605
Complaints closed during period	169
Complaints continuing under investigation	436

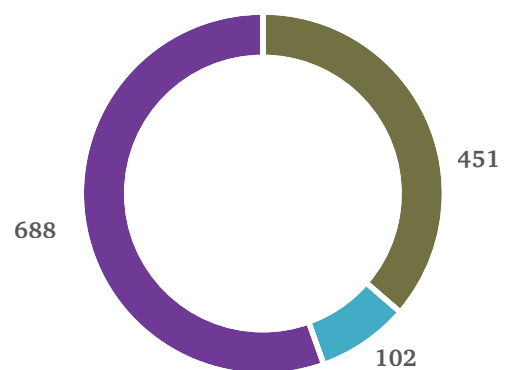
All Complaints



Misconduct	346	(57.2%)
Inadequate Services	213	(35.2%)
Excessive Costs	46	(7.6%)
TOTAL	605	

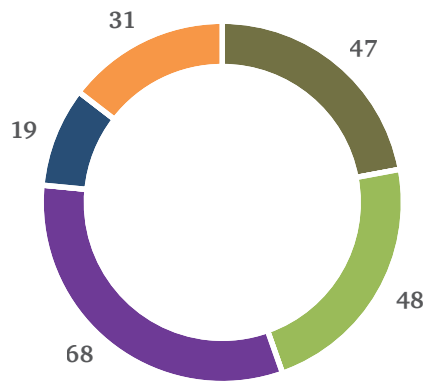
All Complaints

from 7 October 2019 to 6 September 2020



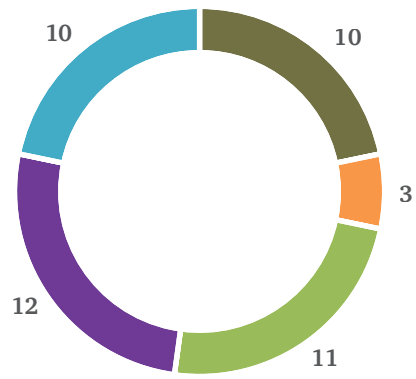
Misconduct	688	(55.4%)
Inadequate Services	451	(36.3%)
Excessive Costs	102	(8.2%)
TOTAL	1,241	

Inadequate Services



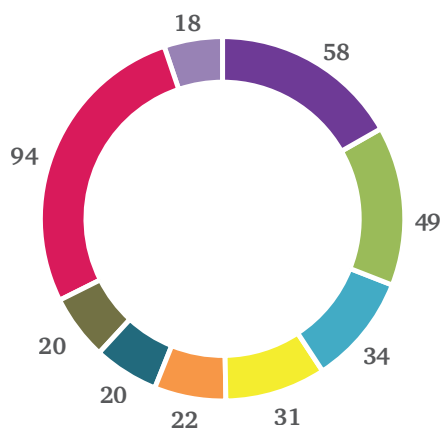
Litigation	68	(31.9%)
Probate	48	(22.5%)
Conveyancing	47	(22.1%)
Family	19	(8.9%)
Other	31	(14.6%)
TOTAL	213	

Excessive Costs



Family	12	(26.1%)
Litigation	11	(23.9%)
Conveyancing	10	(21.7%)
Other	10	(21.7%)
Probate	3	(6.5%)
TOTAL	46	

Misconduct



Failure to communicate	58	(16.8%)
Failure to hand over	49	(14.2%)
Failure to account	34	(9.8%)
Undertaking	31	(9.0%)
Conflict of Interest	22	(6.4%)
Fraud or dishonesty	20	(5.8%)
Counsel's fees	20	(5.8%)
Misc Misconduct under 5%	18	(4.9%)
Other	94	(27.1%)
TOTAL	346	

Case Completion

Case Completion (from 7 October 2019 to 6 September 2020)	
Inadmissible	234
Withdrawn	35
Abandoned	0
Resolved pre IR	86
Resolved in IR	0
Determined	0
Upheld by Committee	0
Referred to Disciplinary Tribunal	0
Other	1
TOTAL	356

Explanation of Legal Terms Used in this Report

Mediation

A form of alternative dispute resolution where an independent person (a mediator) is appointed to help the parties come to agreement. Mediators do not decide the outcome of a dispute. They help the parties consider the issues and the best outcome.

Probate

The process of applying to a court for a Grant that entitles a person or persons to administer a deceased's estate. It confirms the validity of the will, and the Executor/s appointed in the will to act. In the absence of a will, it confirms the person/s who are entitled to act as Administrators.

Beneficiary

A person who is to receive all or a part of a deceased person's estate.

Executor/Administrator

A person appointed to administer the deceased's estate in the Grant referred to above.

Undertaking

A legally binding promise to do or not do something. In the context of complaints, these are specific agreements confirmed in writing by solicitors, which are given to other solicitors and/or banks and other financial institutions. Failure to comply with an undertaking can constitute misconduct.

Lien

A solicitor is entitled to exercise a lien over property (including money) in circumstances where fees are due. This is a common law right and there are exceptions that can apply. Further information can be obtained from the Law Society's Guide to *Good Professional Conduct for Solicitors*.



An tÚdarás Rialála
Seirbhísí Dlí

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