



**An tÚdarás Rialála
Seirbhísí Dlí**

**Legal Services
Regulatory Authority**

Complaints made to the Legal Services Regulatory Authority

Information for the Public

February 2020

About this booklet

This booklet tells you what happens when a complaint is made to the Legal Services Regulatory Authority about a legal practitioner. This booklet should be read in conjunction with the Legal Services Regulation Act 2015.

About the Legal Services Regulatory Authority

The Legal Services Regulatory Authority (“the LSRA”) is a statutory body which regulates the provision of legal services by legal practitioners and ensures the maintenance and improvement of standards in the provision of legal services in the State.

The LSRA is also empowered by legislation to take complaints against legal practitioners in relation to inadequate services, excessive costs, and alleged misconduct.

The LSRA is independent in the performance of its functions.

The functions of the LSRA are set out in the Legal Services Regulation Act, 2015.

IT IS IMPORTANT THAT YOU NOTE THAT A FULL COPY OF YOUR COMPLAINT WILL BE PROVIDED TO THE LEGAL PRACTITIONER (and the Law Society in cases involving a solicitor).

1. General Information

1.1 What can I complain about?

- If you are a client of a practitioner you may complain about inadequate service and/or excessive costs. Time limits apply to complaints about these two categories.
- Anyone can complain about alleged misconduct on the part of a legal practitioner and no time limit applies in such cases

1.2 Who can make a complaint about a legal practitioner?

- If you are a client of a legal practitioner (which includes solicitors or barristers) you can make a complaint yourself; or someone else can make a complaint on your behalf.
- Any person may make a complaint about alleged **misconduct** on the part of a legal practitioner

1.2 What is meant by inadequate standard of service?

This means a level of service which was inadequate in any material respect and was not of a quality that could reasonably be expected.

1.3 What is meant by excessive costs?

This means that an amount of costs sought by the legal practitioner in respect of legal services provided by the legal practitioner was or is excessive.

1.4 What is meant by misconduct?

This can be a range of conduct from allegations of fraud or dishonesty to criminal activity to a breach of the Solicitors Acts 1954 to 2015. A full list of the acts or omissions that may be considered as misconduct can be found at section 50 of the Legal Services Regulation Act 2015 (the 2015 Act). A link to the 2015 Act can be found on our website at www.lsra.ie

1.5 How can I complain?

You can complete and submit a complaint form online via our website.

You can email us at complaints@lsra.ie

You can fill in a Complaint Form or write us a letter and send it to:

Complaints and Resolutions
Legal Services Regulatory Authority
P.O. Box 12906
Dublin 2

You may also contact us by telephone and request a complaint form on 01-8592911.

1.6 Is there a time limit for making a complaint?

Complaints which relate to alleged **inadequate standard of service** or **excessive costs** (or both) have a time limit of **three years**.

There is no time limit for making a complaint of alleged misconduct.

1.7 What information do I need to give the LSRA when I am making my complaint?

If your complaint relates to inadequate service, we will ask you what service you were expecting to receive, and why you think the service you received was inadequate.

If your complaint relates to excessive costs, we will ask you to provide us with a copy of the letter you received from your legal practitioner setting out the likely costs for the service. It would also be useful if you could provide a copy of any bills you received from the legal practitioner.

If your complaint relates to misconduct, we will ask you to describe the behaviour you are alleging and we will decide whether it is a complaint that can be investigated under the Act.

We will need to know if you have made the same complaint before to the Law Society of Ireland, the Honorable Society of King's Inns or the Bar Council and, if so, what happened. If the complaint has been the subject of criminal or civil proceedings or is currently the subject of ongoing proceedings you must provide full details of these.

1.8 Can the LSRA look into a complaint about something that happened outside Ireland?

Yes in certain circumstances the LSRA can accept a complaint against a legal practitioner, relating to activity which constitutes a crime or offence outside the State which, if it occurred within the State, would be an arrestable offence.

1.9 Can a complaint relate to conduct outside the course of a legal practitioners profession?

Yes – if the complaint relates to behaviour of a legal practitioner which is likely to bring his/her profession into disrepute or justify a finding that the legal practitioner is not a fit and proper person to engage in the provision of legal services.

1.10 Do I need legal representation to make a complaint?

No, you can make the complaint yourself without any legal assistance. If you decide you wish to obtain legal advice that decision will be yours and any costs associated with it must be met by you.

1.11 Will my complaint be dealt with in a confidential manner?

As part of the investigation of your complaint **we are obliged to notify the legal practitioner, provide them with a full copy of the complaint and seek his/her response to the complaint. If the complaint relates to a solicitor we must also notify the Law Society of Ireland and provide them with a copy of the complaint.**

2. Starting the complaints process

2.1 If I have decided to make a complaint, what do I do next?

When you have completed our complaint form, please email the form (and scan any supporting documentation) to us at: complaints@lsra.ie	Or, if you do not have access to email, please post your form and supporting documents to us at: Complaints and Resolutions Legal Services Regulatory Authority P.O. Box 12906 Dublin 2.	If you require more information about how we deal with complaints, please visit our website at: www.lsra.ie
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It is important that you are aware that a complaint cannot be investigated by the LSRA if you previously made the same complaint to the Law Society of Ireland, the Bar Council or King's Inns and it was determined by one of those bodies, even if you were unhappy with the outcome of that complaint.

2.2 What happens once I make my complaint?

Once we are satisfied that your complaint is one of inadequate service, excessive costs or misconduct, we will notify the legal practitioner (and the Law Society of Ireland if appropriate).

The legal practitioner will be asked to respond to the complaint and set out his/her response to the complaint.

Once we receive a response from the legal practitioner we will assess all the information available to us by conducting a preliminary review and decide if the complaint is admissible or not.

We may also write to you again if there is a need to ask you for additional information.

Sometimes, the legal practitioner may try to resolve a complaint as soon as he/she receives it and before the LSRA have determined the complaint to be admissible (see point 2.4).

2.3 How long will the initial complaint process take?

As no two complaints are the same, it is very difficult to estimate how long your complaint may take. However, we are committed to providing an efficient and effective service and will be working hard to have the matter dealt with as quickly as possible.

2.4 What does admissible mean?

Admissible means that the complaint meets the criteria set out in the 2015 Act – in other words – it is one of inadequate service/excessive costs or misconduct, is not frivolous or vexatious or without substance or foundation and has been made within the required time limits.

2.5 What happens if my complaint is not admissible?

We will notify you and the legal practitioner (and the Law Society of Ireland if applicable) that the complaint has been determined to be inadmissible. We will explain the reasons why we have found the complaint to be inadmissible. Once a complaint has been found to be inadmissible the LSRA can take no further action in relation to the complaint.

2.6 What happens if my complaint is admissible?

Depending on the type of complaint you have made, there are a couple of avenues the complaint may take. We are required under the legislation to offer you the option to resolve a complaint of inadequate service or excessive costs (or both) informally through Informal Resolution (see point 3.1).

Complaints which are considered by the LSRA to fit the criteria for alleged misconduct are referred to a Complaints Committee for investigation. (see point 6.2)

3. The Informal Resolution process

3.1 What is Informal Resolution?

Complaints can be resolved at a very early stage by a practitioner and the LSRA encourages this.

If the complaint is not resolved and it is processed and determined to be admissible, we will offer mediation if the complaint relates to inadequate service or excessive costs.

The intention is to help complainants and practitioners to resolve complaints to the satisfaction of both parties through mediation carried out by trained mediators.

Complaints of misconduct cannot be resolved by mediation as the legislation doesn't allow for that unless the complaint fits the criteria of being one of inadequate service to a substantial degree. If the inadequate service element of the complaint is resolved and the complainant is satisfied, the LSRA might then decide to pursue the misconduct element separately through a formal investigation by a Complaints Committee.

Complaints of misconduct alone are formally investigated by a Complaints Committee.

3.2 How does Informal Resolution work?

Informal Resolution is a form of mediation conducted by staff of the LSRA, usually by telephone. There is no charge for the mediation conducted by LSRA staff.

You can also choose to have the mediation conducted by someone who is not an LSRA staff member however, charges will apply and they must be borne equally by you and the legal practitioner unless an agreement is reached between you regarding costs.

Informal Resolution is a confidential process and if you engage in it, but cannot resolve the complaint, any information you obtain through the process must remain confidential to the parties involved in the resolution process. This means that if the complaint is being determined, the Complaints & Resolution Officer will not know or be given any answers or statements made in the Informal Resolution process. However, any documents provided will be retained on file and be considered when making a determination.

It is a voluntary process. The LSRA will offer it to you and the legal practitioner and we hope that you will take the opportunity to resolve your complaint at an early stage.

3.3 Do I have to resolve my complaint informally?

No you don't. You and the practitioner will be invited to resolve the matter by informal means - it is open to you and the complainant whether or not to accept the LSRA's offer of informal resolution. We would encourage you however to take the opportunity to try to resolve it at an early stage as informal resolution is considered to be an appropriate way of dealing with complaints of a particular nature. An investigation can sometimes be lengthy and there are no guarantees that the outcome of the investigation will be in your favour.

3.4 What happens if I choose not to accept the offer to resolve my complaint informally?

If you choose not to accept the LSRA's invitation, the LSRA will write to you and the legal practitioner asking for a statement setting out your position in respect of the complaint. The LSRA will then make a determination regarding the complaint.

3.5 If I accept the invitation to resolve my complaint informally, what happens next?

The LSRA will conduct mediation between you and the legal practitioner. We will try to help you and the practitioner find a solution which is acceptable to both of you.

Please be aware that agreement by the legal practitioner concerned to enter into Informal Resolution in an attempt to resolve the complaint, does not mean that they are making an admission of liability with respect to your complaint.

3.6 Can I withdraw my consent to the informal resolution process?

Yes you can. This is a voluntary process and if you or the legal practitioner wish to withdraw your consent to the informal resolution process, you may do so by writing to the LSRA advising us of this. Likewise, the mediator may decide that progress is not being made and terminate the mediation if the matter is unlikely to be resolved.

What happens then?

Similar to the above, we write to you and the legal practitioner, and ask for a statement setting out your positions in respect of the complaint. The LSRA will then make a determination regarding the complaint.

3.7 What happens if a resolution isn't reached in time?

If the LSRA consider that you and the legal practitioner concerned are unlikely to reach an agreement in the matter, the LSRA will notify you that it intends to make a determination in the matter. Where this occurs, a period of 30 days will pass before the LSRA will proceed to determine the matter.

What happens then?

The LSRA will then write to you and the legal practitioner concerned and ask you for a statement setting out your position in relation to the complaint. The LSRA will then make a determination regarding the complaint.

4. LSRA DETERMINATION OF COMPLAINTS

4.1 Why would I end up at determination stage?

If you choose not to engage in mediation, or if mediation is not successful, your complaint will move on to determination stage.

4.2 What does determine my complaint mean?

It means that the LSRA will decide whether or not there is evidence of inadequate service or excessive costs (or both) on the part of the practitioner. If your complaint is upheld you and the legal practitioner will be notified of the determination made and given an opportunity to appeal that decision to a Review Committee.

Complaints of misconduct are not determined by the LSRA. They are referred to a Complaints Committee for investigation.

4.3 What can the LSRA direct the legal practitioner to do?

There are a wide range of directions open to the LSRA if it finds that the matter complained of was of an inadequate standard of service or the costs were excessive. The range of sanctions is too expansive to include here but can be found on our website www.lsr.ie where we have a link to the 2015 Act – sections 60(6) & 61(6) apply.

You will be provided with a copy of the direction made and given an opportunity to consider it and decide whether or not to appeal the decision.

4.3 Your legal rights

With respect to a complaint relating to an **inadequate standard of service or excessive costs**, any decision(s) made by the LSRA will not interfere with, or prohibit you exercising your legal rights.

4.4 If you are dissatisfied with the outcome, what can you do?

Both you and the legal practitioner are entitled to seek a review of the determination made by the LSRA. You can do this by writing to the LSRA within 30 days of the date of notification of the determination requesting a review of the direction made, or, of the failure to make a direction.

Please note that the right of review by a Review Committee is open to both you and the legal practitioner concerned. If a bill of costs has been adjudicated and a review is sought by either you, or the legal practitioner concerned any direction made by the LSRA will cease to have effect pending completion of the review.

4.5 What happens if I ask for a determination to be reviewed?

If you (or the legal practitioner) request a review, the secretary to the Review Committee will write to both of you asking you to provide a statement in writing explaining why you feel that the determination reached by the LSRA was **incorrect** or **unjust**.

5. The Review Committee

5.1 What does it do?

The Review Committee reviews determinations and directions made by the LSRA which relate to complaints of **inadequate standard of service** or **excessive costs** (or both).

5.2 Who sits on the Review Committee?

The Review Committee is made up of three people:

- 2 lay people and
- 1 solicitor or barrister

If the complaint relates to a barrister, then a barrister will sit on the Review Committee. Similarly, if the complaint relates to a solicitor, then a solicitor will sit on the Review Committee.

5.3 What will the Review Committee do?

The Review Committee will review all the documentation available to it (none of which will relate to attempts made to resolve the complaint informally) and make one of the following decisions:

- Confirm the determination of the LSRA;
- Send the complaint back to the LSRA to be dealt with again;
- Issue one or more direction to the legal practitioner concerned which the LSRA is authorised to issue.

5.4 What happens if I accept the Review Committee determination?

If you (and/or the legal practitioner concerned) accept the determination of the Review Committee, it shall become absolutely binding on you (and the legal practitioner concerned) 21 days after the decision was reached.

5.5 What if I am dissatisfied with the decision of the Review Committee?

If you (or the legal practitioner concerned) are dissatisfied with a decision of a Review Committee, you may apply to the High Court for an Order directing the Review Committee to rescind or vary the determination as the Court considers appropriate.

5.6 How long do I have to apply to the High Court?

You must apply to the High Court within 21 days of being notified of the Review Committee decision.

5.7 What happens if I do not make an application to appeal within the 21-day period?

The determination of the Review Committee shall become absolutely binding on you (and the legal practitioner concerned) 21 days after the decision was reached.

5.8 What happens if the legal practitioner doesn't comply with the Review Committee determination?

If a solicitor or barrister concerned, without a reasonable excuse, refuses, neglects or otherwise fails to comply with the determination of the Review Committee, this may be a misconduct issue and/or this may amount to an offence which can be prosecuted in the District Court.

6. Misconduct complaints

6.1 Who will assess my complaint if it relates to misconduct?

The same process will apply regarding admissibility. Admissible complaints relating to misconduct are then referred to a Complaints Committee for investigation. Complaints of misconduct are not suitable for informal resolution.

6.2 What is the Complaints Committee

The Complaints Committee is made up of a total of 27 members who will sit in Divisions in groups of three or five to investigate each individual complaint. These smaller committees are called Divisional Committees. Lay people, solicitors or barristers are appointed as members of each Divisional Committee as appropriate. Every committee will have a lay majority and a lay chairperson.

6.3 How does a Divisional Committee conduct its work?

A Divisional Committee will consider and investigate complaints relating to misconduct. The Divisional Committee will receive a copy of your complaint and any documents relating to the complaint that have been submitted by you and the practitioner together with a summary of the complaint.

The Divisional Committee will then write to the legal practitioner concerned, provide him/her with a copy of your complaint together with a copy of any documents relating to it and request a response. If the legal practitioner agrees that the complaint against him/her is correct he/she will have the opportunity to accept a sanction rather than have the complaint undergo a full investigation.

If the legal practitioner is not in agreement to a direction by the Divisional Committee, it will provide you a copy of the legal practitioners' response and invite you to provide your views on it.

If the Divisional Committee is not satisfied with the legal practitioners' response, or if there is no response by the legal practitioner, the Divisional Committee will proceed to investigate your complaint as it considers appropriate.

If the legal practitioner is willing to accept wrong doing and any sanction which may be imposed, the Divisional Committee will make a determination and direction regarding the complaint. You and the legal practitioner will be notified of the decision of the Committee.

6.4 Are there any requirements on me?

Yes. The Divisional Committee may send you a notice in writing, and may request:

- That you verify anything contained in your complaint;
- That you provide information or documents relating to the complaint;
- Require that information be verified by way of an affidavit or otherwise.

You are required to comply with any request made of you. The Divisional Committee may also require you and the legal practitioner to appear before it, as part of the investigation.

6.5 Are there any requirements on the legal practitioner concerned?

Yes. The Divisional Committee may send the legal practitioner a notice in writing and may request:

- That they verify anything contained in their response to your complaint;
- That they provide information or documents relating to your complaint;
- That they verify information provided by way of an affidavit.

The legal practitioner concerned is required to comply with any notice issued to them.

6.6 Who will represent me at the Committee hearing?

You may represent yourself or you may be represented by a person of your choice for the purpose of appearing before the Committee.

Please be aware however that you will be personally liable for the costs of such representation.

6.7 Can I withdraw my complaint during the Divisional Committee hearing?

Yes you can.

What happens then?

The Committee may decide to accept your withdrawal. However, if the Committee are of the opinion that an investigation should proceed, it can proceed as if you had not withdrawn the complaint. The Committee will notify you and the legal practitioner concerned, of its decision.

6.8 Can the Divisional Committee decide to not issue a direction to the legal practitioner?

Yes it can. If the Committee determines that the matter you complained of is not one which warrants a sanction or direction, the Committee will advise you and the legal practitioner concerned in writing, and give reasons for its decision.

6.9 What power does the Divisional Committee have to impose penalties?

There are a range of penalties available to the Committee, too many to list here. We have however provided a link to the Legal Services Regulation Act, 2015 on our website www.lsr.ie – sections 71(1)(a) and 71(1)(b) apply. The Divisional Committee may decide to refer more serious cases to the Legal Practitioners Disciplinary Tribunal. You will be notified of the decision of the Committee and the sanctions which have been imposed.

6.10 Are there complaints that the Divisional Committee consider too serious for it to investigate?

Yes. This is usually reserved for very serious types of misconduct complaint.

Serious allegations, which do not involve criminality, can be referred to the Legal Practitioners Disciplinary Tribunal (LPDT) if the Divisional Committee considers that it is more appropriate.

Allegations of a criminal nature made against a legal practitioner may be referred to the Garda Síochána for investigation.

6.11 Can I appeal the determination of the Complaints Committee?

Only the practitioner or the LSRA can appeal the determination of the Complaints Committee. There is no appeal mechanism available for complainants.

7. Legal Practitioners Disciplinary Tribunal

7.1 What is the Legal Practitioners Disciplinary Tribunal?

The Legal Practitioners Disciplinary Tribunal (LPDT) is made up of 33 members appointed by the President of the High Court, on the nomination of the Minister for Justice and Equality.

The Tribunal has a majority of lay persons appointed to it.

Its role is to conduct tribunals of inquiry into allegations of misbehaviour of misconduct made against legal practitioners.

7.2 Who can refer matters to the Tribunal?

The Complaints Committee may refer a matter to the Tribunal for investigation. A person appointed by the LSRA will present the evidence to the Tribunal.

7.3 In what circumstances would a complaint be referred to the LPDT?

If the Divisional Complaints Committee consider the misconduct is of such a nature that it is more appropriate to the LPDT.

7.4 What type of complaints might be referred to the LPDT?

It is for the Divisional Committee to decide the type of complaint which might be referred to the LPDT but they are likely to be complaints of serious inadequate service, grossly excessive costs or serious misconduct.

7.5 How does it conduct its inquiry?

The Tribunal has the power to require witnesses to attend before it, and can compel parties to produce documents to it.

7.6 Are hearings in private?

The inquiry is conducted by way of an oral hearing which is normally held in public, unless the Tribunal is satisfied that it should be held in private.

What happens then?

Both the legal practitioner concerned and the LSRA may be represented by a legal practitioner.

Any witnesses called before the Tribunal are required to give their evidence on oath or on affirmation.

7.7 What powers does it have?

The legislation allows the LPDT to call witnesses, hear evidence and make a determination in a case. It can also prosecute someone in Court for failing to appear before it, refusing to produce documents or giving false information which hinders or obstructs the Tribunal.

7.8 What sanctions can it impose?

The Tribunal has a wide range of sanctions available to it under the legislation. This information can be found on our website www.lsr.ie where there is a link to the 2015 Act – section 85(7).

7.9 Can the determination be appealed to the High Court?

Yes.

Who can appeal?

- The LSRA can appeal a decision of the LPDT.
- The legal practitioner concerned can appeal a decision of the LPDT.



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