



An tÚdarás Rialála
Seirbhísí Dlí
Legal Services
Regulatory Authority

Policy on seeking consent from persons directly affected by behaviour of legal practitioners

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Contents

1. Introduction	2
2. Purpose of Policy.....	2
3. Seeking consent	3
4. Reason for seeking consent	3
5. Process to be followed by LSRA staff.....	3
6. Consent Form.....	4

1. Introduction

Section 51 (1) and 51(2) of the Legal Services Regulation Act 2015 sets out the persons authorised to make a complaint to the LSRA:

Section 51 (1):

A client of a legal practitioner, **or person acting on behalf of such a client**, may make a complaint to the Authority in respect of a legal practitioner where the client considers that—

a) the legal services provided to the client by the legal practitioner were or are of an inadequate standard, or

(b) an amount of costs sought by the legal practitioner in respect of legal services provided to the client by the legal practitioner was or is excessive.

Section 51 (2):

A person may make a complaint to the Authority in respect of a legal practitioner where the person considers that an act or omission of the legal practitioner constitutes misconduct.

If someone makes a complaint on behalf of another person, the LSRA will generally require the written consent of that person.

This document sets out the LSRA's policy and procedures for managing complaints made on behalf of persons directly affected by the alleged behaviour of a legal practitioner.

2. Purpose of Policy

The purpose of the policy is to ensure that the person who is/was directly affected by the alleged behaviour of a legal practitioner is in agreement with the complaint being made, unless there is a physical or mental impediment preventing them from consenting.

The policy makes provision for persons who are:

- (i) unable to engage directly in the complaints process; or,
- (ii) unable to give consent orally or in writing because of age or a mental or physical condition

by providing the person making the complaint on their behalf with a Consent Form for signature by the complainant. If the complainant is unable to provide consent in writing, the person making the complaint will have an opportunity to advise the LSRA of this and the reasons why the Consent Form is not completed.

3. Seeking consent

Although Section 51 (1) of the Act allows for a complaint to be made to the LSRA by a person on behalf of someone else, the LSRA will generally seek consent from the person directly affected by the alleged behaviour which gives rise to the complaint unless:

- there is a physical or mental impediment to prevent consent being provided; or
- the complaint is being made by a legal representative (including Free Legal Aid Centre) or a T.D. representing a constituent.

Each case will be considered on its merits and the LSRA may on occasion request confirmation of the capacity of the client from a medical or legal professional. This information will be sought from the person making the complaint on behalf of another person.

4. Reason for seeking consent

The LSRA is of the opinion that persons who have the physical and mental capability to make their own complaint, but have not done so, should be requested to consent to the complaint being made on their behalf. This is to ensure that a concerned friend or relative has not taken on the task without the knowledge or agreement of the person directly affected by the alleged behaviour.

The reason for this is because the LSRA is required by law to attempt to resolve all complaints of inadequate services or excessive costs through Informal Resolution.

It is important therefore that the person directly affected by the alleged behaviour is the person who is ultimately satisfied that the complaint has been resolved. That will require a certain level of communication with the person directly affected, regardless of the status of the person making the complaint to the LSRA.

5. Process to be followed by LSRA staff

- On receiving the complaint, the staff member will record the details of the complaint on the Case Management System.
- The person directly affected by the alleged behaviour will be recorded as the complainant.
- The person making the complaint on behalf of another person will be recorded as a representative and an acknowledgement letter will issue to that person and to the complainant.
- A consent form will be attached for signature of the person directly affected/complainant.
- At the appropriate time, the legal practitioner (and Law Society where appropriate) will be notified of the complaint.
- In all such cases the complainant and the person making the complaint on their behalf will each receive copies of correspondence issued.
- The complaint will then progress through various phases to appropriate closure.

6. Consent Form

If you are making the complaint on behalf of someone else that person must sign the form below, unless, because of age or a mental or physical condition, they are incapable of giving consent.

I consent to _____ making a complaint on my behalf to the Legal Services Regulatory Authority.

I also consent to _____ being my representative throughout the lifetime of the complaint and through whatever stages of the complaint process are relevant to the complaint.

I also undertake to withdraw my consent in writing in the event I do not wish the complaint to be pursued at any point.

()

Name in Block Capitals

Date: _____