



**An tÚdarás Rialála
Seirbhísí Dlí**

**Legal Services
Regulatory Authority**

Complaints made to the Legal Services Regulatory Authority

Information for Legal Practitioners

June 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. The booklet should be read in conjunction with the Legal Services Regulation Act 2015.

IT IS IMPORTANT THAT YOU NOTE THAT A FULL COPY OF ALL YOUR SUBMISSION WILL BE PROVIDED TO THE COMPLAINANT.

THE COMPLAINANT MAY ALSO BE REQUESTED TO COMMENT ON YOUR SUBMISSION PRIOR TO AN ADMISSIBILITY DETERMINATION BEING MADE. THE LSRA WILL NOT REDACT INFORMATION FROM CORRESPONDENCE/SUBMISSIONS SO FOR THAT REASON PLEASE ONLY INCLUDE INFORMATION WHICH YOU ARE HAPPY TO HAVE SHARED WITH THE COMPLAINANT.

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 receive and investigate complaints against legal practitioners in relation to inadequate services, excessive costs, and what might amount to misconduct.

The LSRA is independent in the performance of its functions which are set out in the Legal Services Regulation Act, 2015.

1. General Information

1.1 What can someone complain about?

- A client of a practitioner may complain about inadequate service and/or excessive costs. Time limits apply to complaints about these two categories and
- Alleged misconduct on the part of a legal practitioner. No time limit applies in such cases.

1.2 Who can make a complaint about a legal practitioner?

- A client of a practitioner may make a complaint of inadequate service or excessive cost.
- Any person may make a complaint relating to misconduct
- If a person is making a complaint on behalf of another person the LSRA will require the written consent of that person. A link to the LSRA Consent Policy can be found [here](#).

1.3 What is meant by inadequate 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.

1.4 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.

1.5 How is misconduct defined in the Act?

This can be a range of behaviours from allegations of fraud or dishonesty to criminal activity to a breach of the Solicitors Acts 1954 to 2015. Misconduct is defined in [section 50\(1\) of the Legal Services Regulation Act, 2015 \(the 2015 Act\)](#).

1.6 How can someone complain?

A person can complain by completing and submitting a complaint form online via the LSRA website.

By email: complaints@lsra.ie

By filling in a Complaint Form or writing to the LSRA at:

Complaints and Resolutions
Legal Services Regulatory Authority
P.O. Box 12906
Dublin 7

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

1.7 Is there a time limit for making a complaint?

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

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

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

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

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

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

1.8 Will I need to be legally represented? If so at what stage?

You have the right to be represented at any stage during the complaint proceedings. It is a matter for you to decide if, or when you engage representation. You are responsible for any cost associated with the representation.

1.9 When will the Law Society/Bar Council be informed of a complaint?

We are required under the legislation to notify the Law Society of all complaints which relate to solicitors.

The Bar Council of Ireland will be notified of the complaint at the conclusion of any disciplinary process if the outcome is likely to impact on the ability of the barrister to provide a legal service.

2. WELFARE

2.1 What welfare services are available to practitioners?

The Law Society of Ireland offer the following supports:

Panel to Assist Solicitors

A panel of solicitors who provide assistance to solicitors in Regulation matters which can be found on the Law Society website

<https://www.lawsociety.ie/globalassets/documents/complaints/list-panel-members.pdf>

Wellbeing Hub

A part of the Law Society website that provides online information relating to wellbeing

<https://www.lawsociety.ie/Solicitors/Representation/wellbeing-hub/>

Consult a Colleague

This Law Society funded confidential helpline offers free personal and professional support. It is operated by the Dublin Solicitors' Bar Association
T: 01 284 8484

Guidance and Ethics Helpline

Assistance is offered to solicitors concerned about their own position in relation to matters of conduct.

Contact: Linda Kirwan
T 01 672 4800
l.kirwan@lawsociety.ie

Law Care Ireland

Law Care is a charity that supports and promotes mental health and wellbeing in the legal community throughout Ireland and the UK. It offers a free confidential service which is delivered independently by staff and volunteers with experience of practising law. This service is available to all legal practitioners.

For more information, including a range of useful factsheets, visit the Law Care Ireland Website www.lawcare.ie

3. THE START OF THE COMPLAINTS PROCESS

3.1 What happens once a complaint is received?

Once we are satisfied that the complaint fits the criteria set out in the legislation and is one of inadequate service, excessive costs or misconduct, the legal practitioner (and the Law Society of Ireland if appropriate) will be notified of the receipt of the complaint.

You (and the Law Society if applicable) will be provided with a full copy of all documents submitted to the LSRA by the complainant. You will be invited to respond to the complaint setting out your views regarding it.

Your response to the complaint will be provided to the complainant who will be invited to comment/respond.

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

We will provide you with a copy of any response to the submission you have made which is received from the complainant.

It is open to you to attempt to resolve the complaint immediately upon receipt of the initial notification.

When all the information has been submitted by those concerned we will assess it by conducting a preliminary review and decide if the complaint is admissible or not.

If you choose not to respond to the complaint we will determine the admissibility of the complaint based on the information provided by the complainant. It is therefore in your own interest to respond to our initial invitation to make a submission to us.

A copy of your submission and any additional correspondence received from you in relation to the complaint will be provided to the complainant seeking their views. For that reason, please be satisfied that your submission does not contain any information which you do not wish to have shared with a complainant.

You may try to resolve the complaint as soon as you are notified of it and prior to the LSRA determining the admissibility of the complaint. The LSRA encourages this practice.

All correspondence received will be dealt with and maintained in accordance with the LSRA Data Protection Policy which can be accessed [here](#).

3.2 How long will the initial complaint process take?

As no two complaints are the same, it is very difficult to estimate how long each 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. While some complaints may be quite straightforward, others may not be, and our intention is to process complaints in the order in which we receive them.

4. ADMISSIBILITY

4.1 What constitutes an admissible complaint?

Admissible means that having sought the views of the practitioner and conducted the preliminary review of all the information available, the LSRA is satisfied that there are matters which require resolution and/or investigation.

It also means that the complaint is not considered to be frivolous or vexatious or without substance or foundation and has been made within the required time limits.

The decision regarding admissibility rests with the LSRA. It is for the LSRA and not the parties to a complaint to decide when a complaint is admissible.

It is important that you know that the complaint will not be admissible if it was previously made to and determined by the Law Society of Ireland, the Bar Council or King's Inns, even if the complainant was unhappy with the outcome of that complaint. A complaint is also inadmissible if it is the same or substantially the same as a complaint that has previously been the subject of criminal or civil proceedings which were determined in favour of the legal practitioner.

The LSRA must satisfy itself that a complaint has been previously determined therefore it is necessary that you provide sufficient information if you maintain that that is the case.

As a practitioner, if you believe you have been notified of a complaint which was previously determined, please advise the LSRA of this fact and the details of the original complaint. This will enable the LSRA to correctly determine the admissibility of the complaint.

4.2 What happens if the complaint is not admissible?

We will notify you and the complainant that the complaint has been determined to be inadmissible. We will explain the reasons why we have found the complaint to be inadmissible to you and the complainant. Once a complaint has been found to be inadmissible the LSRA will take no further action in relation to the complaint subject to any review by the Ombudsman.

4.3 What happens if the complaint is admissible?

We will notify you and the complainant that the complaint has been determined to be admissible and the reasons why.

Depending on the type of complaint 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 (including of a substantial nature) or excessive costs (or both) informally through Informal Resolution. Informal Resolution conducted by the LSRA takes the form of mediation. You may still take the opportunity to resolve the complaint informally yourself prior to initiation of the LSRA mediation process.

The informal resolution process conducted by staff of the LSRA is provided by qualified accredited mediators and aims to facilitate both parties arriving at an agreed solution rather than having a solution imposed on them.

Complaints which are considered by the LSRA to fit the criteria for misconduct are referred for investigation by a Complaints Committee.

5. THE INFORMAL RESOLUTION PROCESS

Section 67 of the Legal Services Regulation Act, 2015 requires the LSRA to publish guidelines in relation to the resolution of complaints by informal means. The Guidelines are published on our website and can be found [here](#).

5.1 What is Informal Resolution?

Complaints can be resolved at a very early stage by a legal 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 practitioners and complainants 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 complainant 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 pre and post admissibility 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 complainant and we hope that you will take the opportunity to resolve the complaint at an early stage.

3.3 Do I have to resolve the complaint informally?

No you don't. You and the complainant 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 complainant 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 complainant. We will try to help you and the complainant find a solution which is acceptable to both of you.

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

6. DETERMINING COMPLAINTS

6.1 Why would a complaint end up at determination stage?

If you choose not to engage in informal resolution, or it is not successful, the complaint will move on to determination stage.

If you agreed to informal resolution in the first instance and resolution could not be reached, any documents which might otherwise be disclosed during discovery will be made available to the person determining the complaint.

Notes taken during the informal resolution process or information obtained during the course of the informal resolution process may not be used by any party outside of the confidential informal resolution process.

6.2 What does determine a complaint mean?

It means that the LSRA will decide whether or not there is evidence that costs were excessive, services inadequate (or both) on the part of a practitioner. If the complaint is upheld the LSRA will decide on a sanction in line with the legislation. . Both you and the complainant will be notified of the determination and direction issued and provided with a copy of it. You will be given an opportunity to consider it and decide whether or not to appeal the decision. . If you or the complainant are not satisfied with the determination you will have an opportunity to appeal that decision to a Review Committee within a strict timeframe which is set out in the legislation.

Complaints of inadequate service to a substantial degree i.e. misconduct are not determined by the LSRA. They are referred to the Complaints Committee for investigation if not resolved informally.

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

There are a 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 or both. 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.

6.4 If you remain dissatisfied with this direction, what can you do?

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

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

6.5 What happens if I ask for a determination to be reviewed

If you seek a review the complainant will be notified, or alternately if the complainant seeks a review you will be notified.

The file will be passed to the Review Committee tasked with reviewing determinations and directions made by the LSRA.

6.6 The complainants 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 a complainant exercising their legal rights.

7. The Review Committee

7.1 What does it do?

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

7.2 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.

7.3 What will the Review Committee do?

The Review Committee will write to both you and the legal practitioner asking you to provide a statement in writing explaining why you feel that the determination reached by the LSRA was **incorrect** or **unjust**. The person who has not sought a review will have an opportunity to respond also setting out their views regarding the determination.

The Review Committee will review all the documentation available to it 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 which the LSRA is authorised to issue

7.4 What happens when the Review Committee has made its determination?

Both you and the complainant will be notified of the determination of the Review Committee.

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

If you (or the complainant concerned) are dissatisfied with a determination 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.

7.5 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.

7.6 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 complainant) 21 days after the notification was issued.

7.7 What happens if I don't comply with the Review Committee determination?

If you without good reason refuse, neglect or otherwise fail to comply with the determination, you may be guilty of an offence and could be prosecuted in the District Court. The LSRA may also consider this is a professional conduct matter.

The LSRA will seek confirmation from the parties that the determination of the Review Committee has been complied within the timeframe specified. The file will remain open until such confirmation has been received.

8. COMPLAINTS COMMITTEE – MISCONDUCT COMPLAINTS

8.1 Who will assess the complaint if it relates to misconduct?

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

8.2 What is a 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 individual Divisional Committee as appropriate. Every Committee will have a lay majority and a lay chairperson.

8.3 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 the complaint and any documents relating to it which have been submitted by both you and the complainant, together with a summary of the complaint.

The Divisional Committee will then write to you, provide you with a copy of the complaint together with a copy of any documents relating to it, and request a response. If you agree the complaint against you is warranted you will have the opportunity to accept a sanction rather than have the complaint undergo a full investigation.

If you respond indicating that you are not in agreement to accepting a sanction the Divisional Committee will provide the complainant with a copy of your response and invite the complainant to provide views on it.

If the Divisional Committee is not satisfied with your response, or if you do not respond, the Divisional Committee will proceed to investigate the complaint as it considers appropriate.

If you are willing to accept wrong doing and any sanction which may be imposed, the Divisional Committee will make a determination and direction regarding the complaint. The parties will be notified of the decision of the Committee.

8.4 What powers do the Divisional Committee have?

Where the Divisional Committee, determines that it warrants the imposition of a sanction it may specify one or more of the following:

(a) a direction to the legal practitioner to perform or complete the legal service the subject of the complaint or a direction to the legal practitioner to arrange for the performance or completion of the legal service the subject of the complaint by a legal practitioner nominated by the complainant at the expense of the legal practitioner the subject of the complaint

(b) a direction to the legal practitioner that he or she participate in one or more modules of a professional competence scheme and that he or she furnish evidence to the Authority of such participation within a specified period;

(c) A direction to the legal practitioner—

(i) That he or she waive all or a part of any fees otherwise payable by the complainant to the legal practitioner concerned, or

(ii) That he or she refund to the client some or all of any fees paid to the legal practitioner concerned in respect of the legal services the subject of the complaint;

(d) A direction that the legal practitioner take such other action in the interest of the client as the Committee may specify;

(e) A direction to the legal practitioner to comply with (in whole or in part) an undertaking given by the legal practitioner to another legal practitioner or to another person or body;

(f) A direction to the legal practitioner to withdraw or amend an advertisement;

(g) a direction to the legal practitioner to pay a sum not exceeding €5,000 as compensation for any financial or other loss suffered by the client in consequence of any inadequacy in the legal services provided or purported to have been provided by the legal practitioner, provided that any such payment made in compliance with the direction shall be without prejudice to any legal right of the client;

(h) a direction to the legal practitioner to pay to the Authority a sum not exceeding €5,000 by way of contribution towards the costs incurred by the Authority in investigating the complaint;

(i) where the Divisional Committee has determined that the legal practitioner has in the course of the investigation refused, neglected or otherwise failed, without reasonable cause, to respond appropriately in a timely manner, or at all, to a written request from the Divisional Committee and that the Authority has incurred additional costs in relation to the investigation of the complaint in consequence of that refusal, neglect or failure, a direction to the legal practitioner to pay to the Authority a sum not exceeding €2,500 by way of contribution towards those additional costs incurred by the Authority in investigating the complaint.

Or where the legal practitioner consents in writing it may take one of the following measures:

The issue of a notice—

(a) in the case of a legal practitioner who is a solicitor, to the Law Society informing the Law Society of the decision of the Divisional Committee to impose a sanction under subsection (1)(b) and directing the Law Society to impose a specified restriction or condition on the practising certificate of the legal practitioner concerned,

Or

(b) in the case of a legal practitioner who is a barrister, to the chief executive of the Authority of the decision of the Divisional Committee to impose a sanction under subsection (1)(b) and directing the chief executive to impose, in accordance with Part 9 a specified restriction or condition on the legal practitioner concerned in respect of his or her practice as a barrister

Also where the Divisional Committee considers that the act or omission the subject of the complaint is of a kind that is more appropriate for consideration by the Legal Practitioners Disciplinary Tribunal, it may make an application in respect of the matter to it for the holding of an inquiry under section 81.

8.5 Are there any requirements on me as legal practitioner?

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

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

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

8.6 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 the costs of such representation, if any, shall be borne by the practitioner.

8.7 Can a complainant withdraw the complaint during the Divisional Committee hearing?

Yes.

What happens then?

The Committee may decide to accept the withdrawal however, if the Committee are of the opinion that an investigation should proceed despite the complainant's decision to withdraw their complaint, it will notify you and the complainant of its decision.

8.8 Can the Divisional Committee decide to not issue a direction?

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

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

There are a range of penalties available to the Committee if it decides that it is not appropriate to refer the matter to the Legal Practitioners Disciplinary Tribunal ("the LPDT). You will be notified of the decision of the Committee and the sanctions which have been imposed.

8.10 Can I appeal the determination of the Complaints Committee?

Yes, a determination of the Committee can be appealed to the High Court. Only the practitioner or the LSRA can appeal the determination of the Complaints Committee. There is no appeal mechanism available for complainants.

9. Legal Practitioners Disciplinary Tribunal

9.1 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 complaints.

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

Other 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.

9.2 What is the Legal Practitioners Disciplinary Tribunal?

The Legal Practitioners Disciplinary Tribunal (LPDT) is completely independent of the LSRA. It 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 inquiries into allegations of misconduct made against legal practitioners.

9.3 Who can refer matters to the Tribunal?

The Complaints Committee and the Law Society of Ireland may refer a matter to the Legal Practitioners Disciplinary Tribunal for investigation.

What happens then?

- A person appointed by the LSRA will present the evidence to the Legal Practitioners Disciplinary Tribunal, relating to solicitors or barristers, or
- A person appointed by the Law Society will present the evidence to the Legal Practitioners Disciplinary Tribunal relating to a breach of the Solicitors Accounts Regulations.
- You may be required to submit in writing an outline of the evidence you expect to give if summoned to attend the hearing.

9.4 How does it conduct its inquiry?

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

9.5 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 you and the Legal Services Regulation Authority may be represented by a legal practitioner.

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

All parties to the complaint will have an opportunity to examine every witness giving evidence to the Tribunal.

9.6 What powers does it have?

The legislation allows the Legal Practitioners Disciplinary Tribunal 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.

9.7 What sanctions can it impose?

The Tribunal has a wide range of sanctions available to it under the legislation – from impacting on a practitioners practising certificate to imposing substantial financial fines.

The Disciplinary Tribunal may, subject to subsections (3) and (4), make an order imposing one or more of the following sanctions on the legal practitioner:

- (a) An advice;
- (b) An admonishment;
- (c) A censure;
- (d) a direction that the legal practitioner participate in one or more modules of a professional competence scheme and furnish, within a specified period, evidence to the Disciplinary Tribunal of such participation;
- (e) A direction that the legal practitioner concerned—
 - (i) Waive all or a part of any costs otherwise payable by the complainant to the legal practitioner concerned in respect of the matter the subject of the complaint,
 - (ii) Refund all or any part of any costs paid to the legal practitioner concerned in respect of the matter the subject of the complaint;
- (f) a direction that the legal practitioner arrange for the completion of the legal service to which the inquiry relates or the rectification, at his or her own expense, of any error, omission or other deficiency arising in connection with the provision of the legal services the subject of the inquiry, as the Disciplinary Tribunal may specify;
- (g) A direction that the legal practitioner take, at his or her own expense, such other action in the interests of the complainant as the Disciplinary Tribunal may specify;
- (h) a direction that the legal practitioner transfer any documents relating to the subject matter of the complaint (but not otherwise) to another legal practitioner nominated by the client or by the Authority with the consent of the client, subject to such terms and conditions as the Authority may deem appropriate having regard to the circumstances, including the existence of any right to possession or retention of such documents or any of them vested in the legal practitioner or in any other person;
- (i) a direction that the legal practitioner pay a sum, not exceeding €15,000, as restitution or part restitution to any aggrieved party, without prejudice to any legal right of such party;
- (j) a direction that the whole or a part of the costs of the Disciplinary Tribunal or of any person making submissions to it or appearing before it, in respect of the inquiry be paid by the legal practitioner concerned (which costs shall be assessed by a Legal Costs Adjudicator in default of agreement);
- (k) Where the legal practitioner is a practising solicitor, a direction that a specified condition be imposed on his or her practising certificate;
- (l) where the legal practitioner is a practising solicitor, and the misconduct concerned consists of a breach of the Solicitors Accounts Regulations, a direction that he or she pay a sum not exceeding €15,000 to the Compensation Fund;

(m) Where the legal practitioner is a practising barrister, a direction to the chief executive of the Authority directing him or her to impose a specified restriction or condition on the legal practitioner in respect of his or her practice as a barrister.

The Tribunal may make a recommendation to the High Court that it make one or more of the order specified under Section 85(7) of the Legal Services Regulation Act, 2015.

9.8 Can the determination be appealed to the High Court?

Yes.

9.9 Who can appeal?

- The LSRA can appeal a decision of the Legal Practitioners Disciplinary Tribunal.
- The legal practitioner can appeal a decision of the Legal Practitioners Disciplinary Tribunal.



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