



An tÚdarás Rialála  
Seirbhísí Dlí  
Legal Services  
Regulatory Authority

# Independent Complaints Handling

Complaints  
about solicitors  
and barristers

**Report 1 - 2022**

*From 4 September 2021  
to 4 March 2022*



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# Foreword by the Chief Executive Officer



**Dr Brian J. Doherty**

I am pleased to introduce the first bi-annual report of 2022 into the operation of the independent complaints function of the Legal Services Regulatory Authority. This report documents trends, themes and statistics from 4 September 2021 to 4 March 2022.

The report is the fifth published by the LSRA on the operation of its complaints function and once again reflects on a busy period for the LSRA's complaints team.

The reporting period saw LSRA complaints staff receive 1,802 phone calls and emails requesting complaints forms and other assistance. The complaints team opened 933 query files in the period of which 822 were upgraded to complaints. A total of 811 complaints were closed in the period, the outcomes of which are summarised in this report. There is no doubt that the complaints team and the LSRA generally are very busy.

As I have mentioned in previous reports, the LSRA has recruited more staff and increased the resources in our complaints function in order to deal with the high level of complaints received. The LSRA has also conducted a full review of its complaints processes in order to further improve timeliness and efficiency. In doing so we are focused on improving the experiences of both consumers and legal practitioners who engage in the complaints process.

In previous reports, I have highlighted the number of complaints that are resolved by legal practitioners and complainants through positive engagement

early in the complaints process and often before a complaint has been determined to be admissible. I am pleased to be able to report once again that this trend continues. In this reporting period a total of 342 complaints files were closed in the pre-admissibility process and of these 225 (66%) were resolved between the parties through early engagement. This once again demonstrates that legal practitioners who are able to take a positive and proactive approach to resolving complaints can assist in having the matters dealt with in a timely and pragmatic manner. We are obliged to both legal practitioners and complainants who engage with the process in this way.

Likewise, post-admissibility, the LSRA's Informal Resolution process represents an opportunity for legal practitioners to resolve a complaint on terms that are acceptable to them without the matter proceeding to determination by the LSRA. The LSRA has seen a higher level of engagement of both legal practitioners and complainants in the informal resolution process than in previous reporting periods. The resolution of complaints in this manner can be very labour intensive for the LSRA and further staff are in the process of being trained to assist in the mediation of complaints.

Where it is not possible to resolve a complaint, or where the legal practitioner chooses not to engage with the informal resolution or mediation process, the LSRA can determine the complaint and has the power to direct the legal practitioner to undertake measures such as refunding or waiving fees or the transfer of files. The LSRA made determinations in 36 complaints during this reporting period.

This report also outlines the work of the Review Committee, which reviews determinations made by LSRA complaints staff, and the Complaints Committee which handles misconduct complaints. I am very grateful to the members of both committees for their commitment and diligence in their consideration of complaints.

This report includes a reminder to legal practitioners of the rules around the advertising of legal services and also provides some useful information for consumers of legal services who need to access legal services. The need for legal practitioners to communicate with both clients and colleagues is also highlighted.

As in our previous reports, we have chosen to highlight a number of case studies relevant to emerging themes in the complaints that we receive in the hope that they are of benefit to both legal practitioners and consumers of legal services.

I have had the pleasure recently of receiving some very positive feedback in relation to the LSRA's statutory complaints reports. I hope that they are useful to both legal practitioners and to the consumers of legal services. I am also grateful to the complaints team for their careful consideration of the complaints they receive, for the considerable efforts to resolve matters of conflict that arise in complaints, for their balanced and reasoned decision making and for their hard work.

**Dr Brian J. Doherty**  
**April 2022**

# Introduction

The LSRA began receiving and investigating complaints about solicitors and barristers (collectively referred to as legal practitioners) on 7 October 2019. The 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 fifth such report, and it reports on the period from 4 September 2021 to 4 March 2022.

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.

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 the 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 in ensuring that their delivery of legal services is of the highest standard possible.

To that end, this report contains an overview of our independent complaints handling process, a summary of the nature and types of the complaints that we have received, the outcomes of complaints considered by the Complaints and Review Committees, as well as a series of case studies based on anonymised complaints. 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 and investigate.

# Independent Complaints Handling

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, was responsible for these complaints.

## What types of complaints can the LSRA deal with?

The three grounds for complaints under the Act are:

- the legal services provided by the legal practitioner were of an inadequate standard;
- the amount of costs sought by the legal practitioner for legal services was excessive;
- 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. It also includes the provision of legal services which were of an inadequate standard to a substantial degree or the seeking of grossly excessive costs.

Complaints under the Act's three grounds are classified by the LSRA into a range of categories as part of an administrative process to aid our reporting. For example, complaints alleging inadequate standards of legal services and excessive costs are recorded by areas of work such as litigation, conveyancing, probate and family law. Complaints alleging misconduct are recorded under categories that relate to the nature of the act or omission that gives rise to the complaint.

## 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 costs

Complaints about inadequate legal services or excessive costs 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 legal services or costs must be received by the LSRA within three years of the date on which the legal services were provided or the bill of costs issued or within three years of the client becoming aware of the inadequate legal services or excessive costs (or from when they ought reasonably to have become aware of the same).

### Complaints of misconduct

Any person, not just a client, 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 complaints 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 complaints form where possible. Due to Covid-19 protocols a small number of our complaints staff continue to work remotely, therefore we continue to advise that all correspondence is submitted by email if possible. Correspondence submitted by ordinary post may take longer to process which could result in delay in progressing the preliminary review.

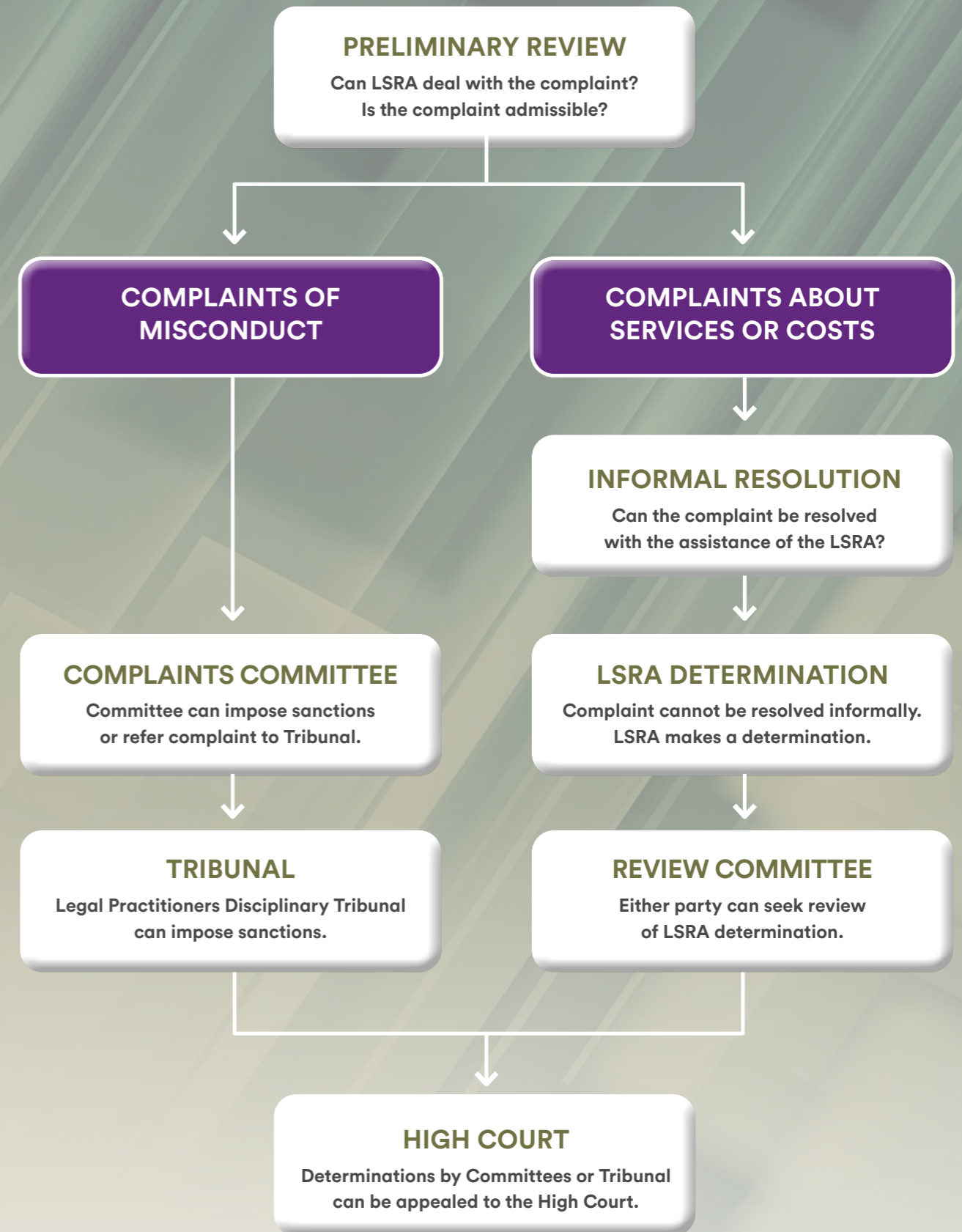
## How we can assist

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, the Free Legal Advice Centres or the National Advocacy Service.

If you require particular assistance accessing our services, you can contact our Access Officer whose details are on our website ([www.lsra.ie](http://www.lsra.ie)).

# Complaint Journey



# The Complaints Process

The Legal Services Regulation Act 2015, together with the Regulations enacted pursuant to the Act, set out detailed processes for the handling of complaints about legal practitioners, including a series of statutory deadlines which must be observed.

All complaints received are designated a file reference and opened initially as a query. Complaints staff then scrutinise each file to decide whether a query should be classified as a complaint or is more appropriately dealt with as a query. This process is an important stage in the complaints handling process as complaints staff clarify the issues that have been raised.

## Preliminary review for admissible and inadmissible complaints

Once a query is classified as a complaint, the LSRA is required under the Act to conduct a preliminary review to determine whether or not the complaint is admissible. In essence, this means that complaints staff gather evidence from both the complainant and the legal practitioner.

As part of this process, the LSRA must notify the legal practitioner of the complaint in writing, provide the legal practitioner with a copy of the complaint and request a written response with observations within 21 days. Complaints staff may also, at this preliminary review stage, request additional information in writing from either the complainant or the legal practitioner.

Legal practitioners are encouraged to provide a full response to 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.

## Informally resolving complaints

The LSRA encourages early resolution of complaints where appropriate. The informal resolution of complaints between parties can take place before the complaint has been determined to be admissible.

In addition, once a complaint has been determined to be admissible, the Act requires the LSRA to invite the parties to make efforts to resolve matters where those complaints relate to:

- legal services of an inadequate standard;
- excessive costs; or
- the provision of legal services of an inadequate standard to a substantial degree that, if substantiated, would constitute misconduct.

Approaches to Informal Resolution include telephone mediation provided by the LSRA's trained staff (by way of conference calls), face-to-face meetings (pre Covid-19) and the appointment of an external mediator. The approach to Informal Resolution taken in a particular complaint 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.

## Determination of complaints about services and costs

If not resolved, complaints relating to inadequate legal 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 (and that it is appropriate to do so) 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 LSRA 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 a legal practitioner was or is excessive (and that it is appropriate to do so) 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 make a determination that the costs sought were not excessive or that the legal services delivered were not inadequate.

## Review of LSRA determinations

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

The independent Review Committee sits as a three person committee, composed of two lay persons and one legal practitioner. The Review Committee considers all requests for review made to it and provides both the complainant and the legal practitioner with an opportunity to make a statement in writing as to why the determination of the LSRA was incorrect or unjust.

Following its consideration of the determination made by the LSRA, as well as any statements made by the complainant and the legal practitioner, the Review Committee can:

- Confirm the LSRA determination;
- Send the complaint back to the LSRA with directions for it to be dealt with again;
- Issue one or more directions to the legal practitioner, for example to waive or refund fees, to rectify an error or to pay compensation, as it considers appropriate.

## Determination of misconduct complaints

The Complaints Committee considers and investigates complaints of alleged misconduct about legal practitioners that are referred to it by the LSRA. The LSRA established the Complaints Committee in 2020. It is independent in its decision-making.

The Committee is made up of 27 members. These comprise a total of 15 lay members, eight solicitor members nominated by the Law Society, and four barrister members nominated by the Bar of Ireland (Bar Council).

The Complaints Committee is split into three groups, each with nine members. Divisional Committees drawn from these three groups sit to investigate complaints, as either a five or three person committee. Divisional Committees always have a lay majority and a lay chairperson. The Divisional Committees sit on a rolling basis throughout the year at approximately six week intervals.

The Complaints Committee can request the complainant or legal practitioner to supply information or documentation relating to the complaint and can also require either party to verify information by way of an affidavit. The Complaints Committee can also require the complainant and the legal practitioner to appear before it for the purposes of the investigation of the complaint.

The Complaints Committee can refer more serious matters on to the Legal Practitioners Disciplinary Tribunal (LPDT) for further investigation, where appropriate.

If the Complaints Committee considers that the complaint does not warrant referral to the LPDT, but is one that warrants the imposition of a sanction, it can impose sanctions including the following directions to the legal practitioner to:

- **Complete the legal service or arrange for the service to be completed by a legal practitioner nominated by the complainant at the expense of the legal practitioner;**
- **Participate in a professional competence scheme;**
- **Waive or refund fees;**
- **Take other action in the interest of the complainant;**
- **Comply with undertaking(s);**
- **Withdraw or amend an advertisement made by the legal practitioner;**
- **Pay compensation to the complainant not exceeding €5,000;**
- **Pay costs to the LSRA;**
- **With the consent of the legal practitioner (failing which the matter will proceed to the Legal Practitioners Disciplinary Tribunal) impose a specified restriction or condition on the practising certificate or the practice of the legal practitioner.**

## Number and Nature of Complaints Received

During the reporting period from 4 September 2021 to 4 March 2022, the LSRA received a total of 1,802 phone calls and e-mails requesting information and/or complaint forms. In addition, a total of 993 files were opened initially as queries. Following assessment, a total of 822 were then categorised as complaints. Of the 822 complaints, a total of 799 related to solicitors and 23 related to barristers.

The largest category of complaints received related to alleged misconduct. A total of 577 complaints (70%) were in respect of alleged misconduct. A total of 213 complaints (26%) related to alleged legal services of an inadequate standard and a further 32 (4%) came under the category of alleged excessive costs (overcharging).

This trend is largely consistent with the pattern seen in the four previous complaints reports. Complaints continue to rise and those relating to alleged misconduct continue to rise as a proportion of the total (70% in this reporting period compared to 66% and 57% in the previous two reporting periods). Complaints of inadequate legal services continue to fall (26% in this reporting period compared to 29% and 36% in the last two reporting periods). Complaints relating to excessive costs also continue to fall (4% in this reporting period, down from 5% and 7% in the last two reporting periods).

Full details and a further breakdown of these figures are provided in the Statistical Breakdown of Complaints section of this report.

# Complaints Outcomes

## Summary

A total of 811 complaints were closed in this reporting period. Of these 342 (42%) were closed pre-admissibility – that is before a decision was made as to whether the complaint was admissible under the Act. A further 469 complaints (58%) were closed either at the admissibility stage or post-admissibility.

Of the 342 complaints closed in the pre-admissibility process, 225 were resolved by the parties with the assistance of the LSRA before a decision was made as to whether the complaint was admissible under the Act. In addition, 90 were withdrawn by the complainant. The consideration of a further 14 complaints was deferred due to ongoing related proceedings, and there were a further 13 complaints that could not proceed to admissibility for a variety of other reasons.

A total of 376 complaints were deemed to be inadmissible following preliminary review by the LSRA and closed. A further 12 were resolved with the assistance of the LSRA's trained mediation staff in the Informal Resolution process. A total of 36 complaints were determined by the LSRA and closed and 46 complaints were closed by the Complaints Committee.<sup>1</sup>

Further detail on these outcomes is provided below.

## Informally resolved complaints

As mentioned above, 225 complaints were resolved by the parties with the assistance of the LSRA during the pre-admissibility stage in the current reporting period – that is before a decision was made as to whether the complaint was admissible under the Act. That compares with 183 in previous reporting period, and 85 in the period before that.

In addition, in a total of 87 complaints of inadequate legal services or excessive costs which were determined to be admissible, the parties were invited to make efforts to resolve matters in the LSRA's Informal Resolution process.

Of these, in 15 complaints (17%), there was no response to the invitation by either the complainant or the legal practitioner. In 33 complaints (38%) the legal practitioner chose not to engage with the process and in 8 complaints (9%) the complainant chose not to engage.

In the reporting period a total of 12 complaints (14%) were resolved in the Informal Resolution process with the assistance of the LSRA's trained mediation staff. In 19 other complaints (22%), where both parties engaged in the Informal Resolution process, it was not possible to resolve the complaint.

## LSRA determinations of complaints

As set out above, admissible complaints of inadequate legal services and excessive costs that are not resolved in the Informal Resolution process proceed to determination by the LSRA.

Complaints that have been determined by the LSRA can be reviewed by the Review Committee should either or both parties request such a review within 30 days of notification (the review period). Where the 30 days expires without a review request, the LSRA's determination is binding upon the parties. For this reason, these reports only report on determinations made by the LSRA complaints staff where the 30 day review period has passed.

A total of 39 determinations were made by the LSRA in this reporting period. Of these, 33 complaints were upheld and six were not upheld. For reasons outlined above, 16 LSRA determinations can be reported on.

These are as follows:

- In one complaint where the LSRA determined that the legal costs charged were excessive, the legal practitioner was directed to waive fees of €2,000.
- In one complaint where the LSRA determined that the legal services provided were inadequate, the legal practitioner was directed to transfer the file held by them and pay compensation of €2,000 to the client.
- In one complaint where the LSRA determined that the legal services provided were inadequate, the legal practitioner was directed to complete the matter as had been agreed, but to also waive all fees and pay compensation to the client of €2,500.
- In one complaint where the LSRA determined that both the legal services provided were inadequate and that the legal costs charged were excessive, the legal practitioner was directed to pay €500 compensation and refund €2,000 of the fee to the client.
- Six complaints were not upheld.
- In six complaints reviews of the LSRA determinations were requested and the results of those reviews are reported on below (see *Review Committee Determinations*.)

The next complaints report will report on the outcomes of the 23 complaints that were within the 30 day review period at the time of this report.

<sup>1</sup> The total number of complaints closed was 811 but the total number of outcomes was 812. The outcome of one misconduct complaint is counted twice as the Legal Services Regulation Act 2015 allows for two separate outcomes. The complaint was both resolved in Informal Resolution and closed by the Complaints Committee.



## LSRA determinations in previous reporting period

The LSRA can now report on 13 LSRA complaints staff determinations that were made in the previous reporting period. These determinations were still within the 30 day review period at the time of publication of the last complaints report, and for this reason could not be reported on in detail.

In six of these complaints, the LSRA upheld the complaints and made the following directions:

- In two complaints of legal services of an inadequate standard, the LSRA directed the legal practitioners to refund fees paid by the clients of €650 and €3,000 respectively and to transfer the files to new solicitors.
- In one complaint of legal services of an inadequate standard, the LSRA directed that the legal practitioner pay compensation to the client of €2,850 for financial or other loss and to also transfer the file to new solicitors.
- In two complaints of legal services of an inadequate standard, the LSRA directed that the legal practitioners pay compensation to the clients of €1,107 and €3,000 respectively.
- In one complaint of legal services of an inadequate standard, the LSRA directed that the legal practitioner waive the right to recover fees from the client and to transfer the file to new solicitors.

Out of the other seven complaints, one was not upheld, and reviews of LSRA determinations were requested in six. The results of those reviews by the Review Committee are reported on below.

Full details of LSRA determinations where directions have been issued to the legal practitioner are contained in Table 2 in the Complaints Completion section of this report. Table 2 refers to 29 determinations, which comprises 16 made in this period that can be reported and 13 that were carried over from the previous period.

## Review Committee outcomes

The Review Committee sat on five occasions in the reporting period to consider LSRA determinations where reviews had been requested. A total of 12 complaints were reviewed by the Committee. In eight complaints the review was requested by the complainant and in four the review was requested by the legal practitioner.

The Review Committee determinations, as set out in Table 3 in the Complaints Completion section of this report, were as follows:

- In the eight reviews requested by complainants, six determinations made by the LSRA were confirmed by the Review Committee. The Review Committee remitted the two other determinations back to the LSRA for further consideration.
- In the four reviews requested by legal practitioners, two determinations made by the LSRA were confirmed, one was remitted back to be reconsidered by the LSRA, and in one complaint the Review Committee reduced the compensation to be paid by the legal practitioner to the complainant from €3,000 to €2,500.

## Complaints Committee outcomes

The Complaints Committee met on 12 occasions in the reporting period and closed a total of 46 complaints.

Those outcomes were as follows:

- Twelve complaints were resolved by the parties. These complaints were resolved to the satisfaction of the complainant, and the Complaints Committee did not continue with its investigation of the complaints.
- One complaint was referred by the Complaints Committee to the Legal Practitioners Disciplinary Tribunal (LPDT) for further investigation.
- A total of 29 complaints were not upheld by the Complaints Committee.
- Three complaints were withdrawn by the complainant and the Complaints Committee therefore did not continue with its investigation.
- The investigation of one complaint was deferred as court proceedings had been issued.

Table 4 in the Complaints Completion section of this report provides a listing of these outcomes.

In a small number of complaints before the Complaints Committee, legal practitioners have not responded to correspondence in a timely manner, or sometimes, have not responded at all. Practitioners should note the powers the Complaints Committee have under the Act to recover the costs of their investigation. Where the Complaints Committee considers it to be reasonable and appropriate, it can direct a legal practitioner to pay up to €5,000 towards the costs incurred by the LSRA in investigating the complaint. Where the Complaints Committee determines that the legal practitioner has in the course of the investigation “refused, neglected or otherwise failed, without reasonable cause, to respond appropriately”, the legal practitioner can be directed to make a further contribution to the costs of up to €2,500.

Failure to respond to correspondence from the LSRA may also be taken into account by the Complaints Committee when considering whether a complaint should be referred to the LPDT.

# Themes Emerging from Complaints

In this report the LSRA highlights the following issues:

## Communications failures are significant feature of most complaints

Failure to communicate remains a significant feature of most complaints received by the LSRA. Where these complaints are made by the client of a legal practitioner they often relate to lengthy delays in responding to client queries or instructions. Complaints such as these are often dealt with as complaints that the services provided were of an inadequate standard.

The LSRA also receives complaints about legal practitioners not responding promptly or at all to communications from fellow legal practitioners. Under the Act, these complaints may be treated as an allegation of misconduct.

Legal practitioners in making such complaints to the LSRA often state that they are doing so reluctantly and only after several reminder letters have been sent.

Similarly, a client of a legal practitioner should not be put in the position of complaining to the LSRA just to find out what is happening in legal proceedings in which they are involved.

The LSRA receives a number of complaints in each reporting period that could have been avoided by legal practitioners dealing promptly with correspondence.

## Complaints about outstanding undertakings continue to increase

An undertaking is a legally binding promise to do or not do something. Solicitors routinely give undertakings to financial institutions that they will be responsible for doing certain things connected with their clients' purchase of a property, for example, to stamp and register the transaction in order to give the necessary security for the mortgage. Solicitors also routinely give undertakings to each other when acting in a sale or purchase. Undertakings are therefore a feature of most property transactions. Failure to comply with an undertaking is investigated as a complaint of alleged misconduct.

Although the LSRA has referred to complaints relating to outstanding solicitors' undertakings in our previous reports, it is unfortunately necessary to do so again as complaints of this nature are continuing to increase.

In our previous report we referred to the fact that the LSRA received 134 complaints relating to outstanding undertakings in that six month period. In the period covered by this report that has increased to 209.

The LSRA is therefore taking this opportunity to again remind solicitors about the importance of ensuring that undertakings are complied with in a timely fashion, that policies and procedures are put in place to manage compliance, and that correspondence following up on outstanding undertakings is not ignored.

## LSRA reminder on advertising of legal services

The LSRA has been regulating advertising by legal practitioners since December 2020. The Legal Services Regulation Act 2015 (Advertising) Regulations 2020 apply to print, audio and visual advertisements, including online advertising.

The regulations apply to solicitors, firms of solicitors and barristers as well as limited liability partnerships (LLPs) who advertise their legal services. They also apply to groups of legal practitioners who share a facility, premises or cost of practice, and who advertise themselves as a group.

While legal practitioners are allowed to advertise their legal services, the LSRA would like to remind all legal practitioners that some prohibitions on the content and form of advertisements exist.

Prohibitions in the regulations include:

- **The use of the phrases “no win no fee”, “no foal no fee” and “free first consultation” or similar in advertisements which refer to personal injuries as part of the legal services provided.**
- **Advertisements which include an amount of possible damages for personal injury claims that are not based on the Personal Injuries Assessment Board Book of Quantum or Personal Injuries Guidelines issued by the Judicial Council, as applicable.**
- **Advertisements in any form in an inappropriate location such as a hospital, clinic, doctor’s surgery, funeral home, cemetery, crematorium or similar.**

- **Advertisements which solicit, encourage or offer inducement to a person or a group to make claims for personal injuries or seek legal services in connection with such claims.**
- **Advertisements which refer to the “success rate” of a legal practitioner.**

Also not permitted under the regulations are advertisements which are likely to bring the legal profession into disrepute; are in bad taste; reflect unfavourably on another legal practitioner; are false or misleading.

An advertisement must also state by whom it is published.

The LSRA may carry out investigations into particular advertisements either on foot of a complaint received or on its own initiative.

The LSRA may decide that a particular advertisement may contravene the regulations or the Legal Services Regulation Act 2015. If so, the LSRA will give the legal practitioner time to restrict the publication of the advertisement or take other steps it directs.

The LSRA can apply to the High Court for an order prohibiting a legal practitioner from contravening the regulations.

The LSRA encourages all legal practitioners to review their websites and other forms of advertising and to ensure that they are in compliance with the regulations rather than attract complaints and/or prompt the LSRA to undertake an investigation, under the Advertising Regulations, and possible potentially High Court enforcement proceedings.

## Useful information for consumers before engaging a solicitor or barrister

Many legal practitioners (solicitors or barristers) advertise the services they provide, including on their websites. The name of the legal practitioner who is publishing the advertisement, or on whose behalf the advertisement is published, should be clear from the advertisement.

Consumers should be aware of “claims harvesting” websites. These websites often target people looking online for information in relation to potential personal injury claims. These sites are often set up by non-legal practitioners and operated from outside of Ireland.

The LSRA only regulates legal practitioners. Members of the public can take steps to ensure that they are dealing with a legal practitioner regulated by the LSRA through the following checks:

### For Solicitors:

- Whether a solicitor has a practising certificate by checking the Find a Solicitor/Firm page on the Law Society of Ireland website, [www.lawsociety.ie](http://www.lawsociety.ie)
- Whether a solicitor has the required professional indemnity insurance by checking the Firm Insurance Details page on the Law Society of Ireland website.

### For Barristers:

- Whether a barrister is entitled to provide legal services in the State by checking the Roll of Practising Barristers, maintained by the LSRA, which is available on the LSRA’s website, [www.lsra.ie](http://www.lsra.ie)
- Generally speaking barristers are required to have professional indemnity insurance in place. However this requirement is subject to certain exemptions. Consumers should note there is no publicly searchable register in relation to barristers’ professional indemnity insurance.

As a client of a solicitor, you are legally entitled to clear written information about the costs of the legal services you are receiving. The Legal Services Regulation Act 2015 (Part 10) sets out the duties of solicitors and barristers when charging and billing their clients.

For further information on this please see the For Consumers section of the LSRA website, [www.lsra.ie](http://www.lsra.ie)

## 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 complaints may have been altered to ensure anonymity, but the case studies should serve to illustrate the nature of the complaints we receive. It is hoped that these case studies will illustrate many of the themes in this report and be useful for both consumers and legal practitioners.*

### Payment plan for outstanding fees led to resolution of barrister complaint

#### **Type of Complaint: Misconduct**

The Bar of Ireland’s Fee Recovery Unit made a complaint against a solicitor on behalf of a barrister regarding more than €15,000 in outstanding fees.

#### **Outcome: Complaint resolved with assistance of LSRA**

In the preliminary review stages when the complaint was being considered by the LSRA for admissibility, the solicitor suggested that a payment plan be agreed. This proposal was put to the barrister concerned and the complaint was resolved on that basis.

#### **Lessons for the Public**

Where you owe substantial legal fees to a solicitor, it may be worth entering into a payment plan to pay the money owed over a period of time. This will allow the solicitor in turn to come to a payment arrangement with the barrister.

#### **Lessons for Practitioners**

Solicitors must remember that they are obliged to use their best endeavours to ensure that barristers are paid. It is not sufficient to simply send a fee note to the client. In cases of genuine financial difficulty, suggesting a reasonable payment plan to the client may resolve the issue of your own outstanding fees and those of counsel.

## Solicitor who failed to properly communicate advance costs directed to compensate client

### **Type of Complaint: Inadequate Legal Services**

The complainant complained that the fees charged by her solicitor in relation to the purchase of a property were excessive and that she did not receive an advance notice of costs from the solicitor in relation to the likely fees for the conveyancing services.

### **Outcome: Complaint upheld**

The legal practitioner responded fully to the complaint and addressed the issues raised by the complainant. The solicitor could not demonstrate that he had provided the complainant with a notice setting out the costs likely to be incurred before commencing the delivery of legal services.

The complaint was referred for Informal Resolution as required by the Act. The parties did not engage in Informal Resolution and the complaint was determined by the LSRA which directed the legal practitioner to pay the client a sum of approximately €1,000 as compensation. The direction was complied with by the legal practitioner and the file closed.

### **Lessons for the Public**

Clients of legal practitioners are entitled to receive a detailed notice of costs as soon as practicable after instructing a solicitor. This notice should set out the costs that will be incurred in the matter, or the basis on which the legal costs are to be calculated, and should be written in clear language that is easily understood.

### **Lessons for Practitioners**

Practitioners are reminded of the importance of ensuring that a client receives a notice of costs at the outset of the provision of legal services and the importance of ensuring that separate notices are provided in relation to separate areas of work carried out for a client.

Where the legal practitioner becomes aware of any factor that would make the legal costs significantly greater than those previously indicated they must provide the client with an updated notice.

## Solicitor should have obtained consent of client before settling costs in personal injuries action

### **Type of Complaint: Excessive Costs**

The complainant settled a personal injury action for an agreed sum as well as a contribution towards the complainant's solicitor's costs. The solicitor advised the complainant that there was a shortfall in the amount of costs recovered from the defendant, and provided a bill of €2,000 for costs to the complainant for this shortfall. The complainant complained to the LSRA that the solicitor should have sought her consent before accepting a contribution towards the costs which meant that the complainant had to pay the remainder.

### **Outcome: Complaint resolved with assistance of LSRA before determination**

The complaint was determined to be admissible and was sent for Informal Resolution. The solicitor did not respond to the invitation to try to resolve the matter informally and the matter was therefore sent for determination by an LSRA Complaints and Resolution Officer. The solicitor and the complainant were both asked to submit statements before a determination was made.

The solicitor ultimately offered to refund the complainant the €2,000 in costs charged, which resolved the complaint without the need for the LSRA to determine the matter.

### **Lessons for the Public**

Even if you are successful in a personal injury action, you will very often have to pay a contribution towards your solicitor's costs, as it is rarely the case that you will recover 100% of the costs. If your solicitor is looking for a contribution to their costs from you, you should be fully advised of the total costs being sought and the contribution being offered by the other side as you retain the right to have the costs adjudicated if not agreed.

### **Lessons for Practitioners**

A client's fully informed consent should be obtained before settling the defendant's contribution towards costs if you are seeking any shortfall from the client.

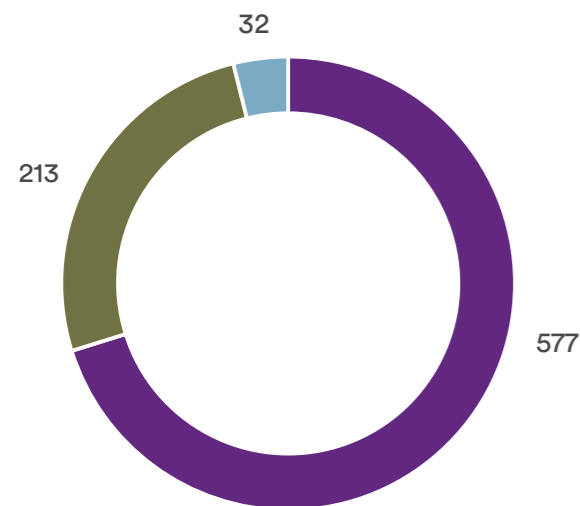
Legal practitioners are reminded of their obligations to prepare a bill of costs in compliance with the requirements of S151(2) of the Legal Services Regulation Act 2015. This should be one bill setting out the total costs including the amount of any legal costs recovered by the legal practitioner on behalf of the client from another party.

# Statistical Breakdown of Complaints

## Complaints Received

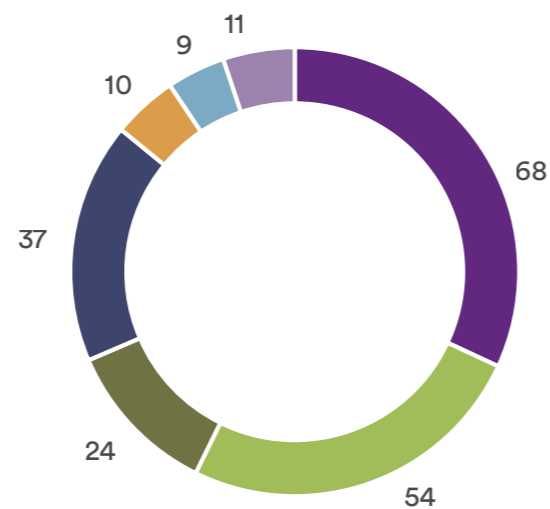
From 4 September 2021 to 4 March 2022

### All Complaints



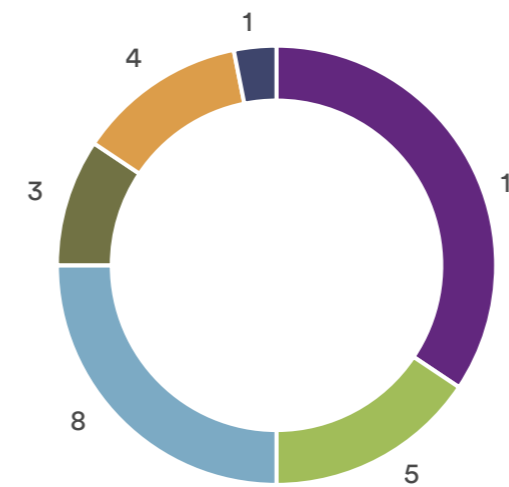
● Misconduct	<b>577</b>	(70.2%)
● Inadequate Services	<b>213</b>	(25.9%)
● Excessive Costs	<b>32</b>	(3.9%)
<b>TOTAL</b>	<b>822</b>	

### Legal Services of an Inadequate Standard



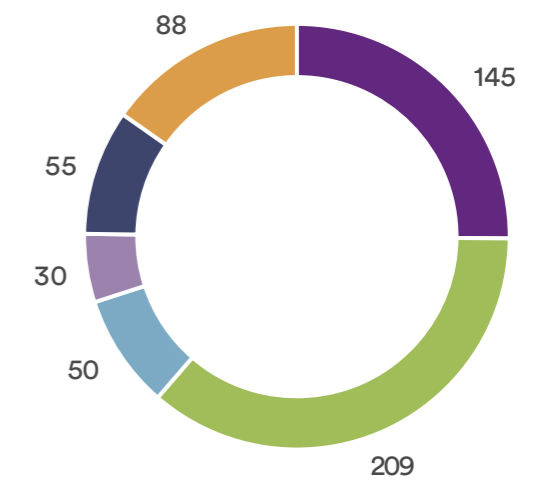
● Litigation	<b>68</b>	(31.9%)
● Conveyancing	<b>54</b>	(25.4%)
● Probate	<b>24</b>	(11.3%)
● Family	<b>37</b>	(17.4%)
● Crime	<b>10</b>	(4.7%)
● Employment	<b>9</b>	(4.2%)
● Other	<b>11</b>	(5.1%)
<b>TOTAL</b>	<b>213</b>	

### Excessive Costs



● Litigation	<b>11</b>	(34.4%)
● Family	<b>5</b>	(15.6%)
● Conveyancing	<b>8</b>	(25.0%)
● Probate	<b>3</b>	(9.4%)
● Other	<b>4</b>	(12.5%)
● Crime	<b>1</b>	(3.1%)
<b>TOTAL</b>	<b>32</b>	

### Misconduct



● Undertaking	<b>209</b>	(36.2%)
● Conduct bringing the profession into disrepute	<b>145</b>	(25.1%)
● Failure to hand over	<b>50</b>	(8.7%)
● Failure to account	<b>30</b>	(5.2%)
● Failure to communicate	<b>55</b>	(9.5%)
● Other	<b>88</b>	(15.3%)
<b>TOTAL</b>	<b>577</b>	

# Complaints Completion Statistics

Complaints closed from 4 September 2021 to 4 March 2022

**TABLE 1: Summary of Case Completions**

Complaints Closed Pre-Admissibility	
Resolved with assistance of LSRA	225
Withdrawn	90
Deferred	14
No Longer Practising	2
Other	11
<b>Total complaints closed pre-admissibility</b>	<b>342</b>
Complaints Closed At or Post-Admissibility	
Inadmissible	376
Determined by LSRA	36
Resolved in Informal Resolution	12
Closed by Complaints Committee	46
<b>Total complaints closed at or post-admissibility</b>	<b>469*</b>
<b>TOTAL COMPLAINTS CLOSED</b>	<b>811</b>

\* One Complaint was closed at Informal Resolution and at Complaints Committee.

**TABLE 2: Complaints Determined by LSRA Complaints Staff**

No.	Determination Date	Upheld/Direction to Legal Practitioner	Section of the Act	Request for review by Review Committee
1	12/07/2021	Refund fees of €1,250 to client	S60(6)(b)	Complainant
2	03/08/2021	Pay compensation of €1,107 to client	S60(6)(d)	
3	04/08/2021	Produce Estate Accounts and waive professional fees	S60(6)(a) & (c)	Legal Practitioner
4	09/08/2021	Transfer file to new solicitor and refund €650 of client fee	S60(6)(c)	
5	09/08/2021	Transfer file and waive client fees	S60(6)(c)	
6	09/08/2021	Not Upheld		Complainant
7	13/08/2021	Pay compensation of €900 to client	S60(6)(d)	Legal Practitioner
8	16/08/2021	Transfer file to new solicitor and pay compensation of €2,850 to client	S60(6)(c) & (d)	
9	16/08/2021	Not Upheld		Complainant
10	16/08/2021	Not Upheld		Complainant
11	19/08/2021	Transfer file and pay compensation of €3,000 to client	S60(6)(c) & (d)	Legal Practitioner
12	01/09/2021	Transfer file and refund €3,000 of client fee	S60(6)(c)	
13	02/09/2021	Pay compensation of €3,000 to client	S60(6)(d)	
14	06/09/2021	Waive client fees of €2,000	S61(6)(a)	
15	07/09/2021	Submit Land Registry application and waive all client fees	S61(6)(b)	Complainant
16	09/09/2021	Not Upheld		

**TABLE 2: (Continued)**

No.	Determination Date	Upheld/Direction to Legal Practitioner	Section of the Act	Request for review by Review Committee
17	14/09/2021	Transfer file to new solicitor and pay compensation of €2,000 to client	S60(6)(a)&(d)	
18	07/10/2021	Complete matter as agreed but waive fees and pay compensation of €2,500 to client	S60(6)(c)& (d)	
19	11/10/2021	Pay compensation of €1,000 to client	S60(6)(d)	Complainant
20	29/10/2021	Refund €492 of the client fee	S61(6)(a)	Legal Practitioner
21	03/11/2021	Not Upheld		Complainant
22	11/11/2021	Transfer file to new solicitor and pay compensation of €1,000 to client	S60(6)(c)& (d)	Complainant
23	16/11/2021	Pay €500 compensation to client and refund €2,000 of client fee	S60(6)(d)&S61(6) (a)	
24	29/11/2021	Not Upheld		
25	08/12/2021	Not Upheld		
26	10/12/2021	Not Upheld		
27	10/12/2021	Not Upheld		
28	24/12/2021	Not Upheld		
29	24/12/2021	Not Upheld		

**TABLE 3: Review Committee Outcomes**

No.	Date of LSRA Determination	LSRA Direction	Date of Review Committee Meeting	Outcome
1	12/07/2021	Refund client fees of €1,250	28/09/2021	Confirmed LSRA determination S62(5)(a)
2	16/08/2021	Not Upheld	28/09/2021	Confirmed LSRA determination S62(5)(a)
3	04/08/2021	Produce Estate Accounts and waive professional fee	28/09/2021	Remitted back to LSRA S62(5)(b)
4	07/09/2021	Submit Land Registry application and waive all client fees	11/11/2021	Remitted back to the LSRA S62(5)(b)
5	13/08/2021	Pay compensation of €900 to client	11/11/2021	Confirmed LSRA determination S62(5)(a)
6	09/08/2021	Not Upheld	11/11/2021	Remitted back to the LSRA S62(5)(b)
7	19/08/2021	Transfer file to new solicitor and pay compensation of €3,000 to client	08/02/2022	Confirmed LSRA determination. Reduced compensation to be paid by the legal practitioner to €2,500 S60(6)(c)
8	16/08/2021	Not Upheld	21/02/2022	Confirmed LSRA determination S62(5)(a)
9	29/10/2021	Refund €492 of the fee	21/02/2022	Confirmed LSRA determination S62(5)(a)
10	11/10/2021	Pay compensation of €1,000	21/02/2022	Confirmed LSRA determination S62(5)(a)
11	03/11/2021	Not Upheld	25/02/2022	Confirmed LSRA determination S62(5)(a)
12	11/11/2021	Transfer file and pay compensation of €1,000	25/02/2022	Confirmed LSRA determination S62(5)(a)

**TABLE 4: Complaints Committee Outcomes**

<b>Complaints Committee Outcomes</b>	
Referred to LPDT	<b>1</b>
Not Upheld	<b>29</b>
Upheld/Direction	<b>0</b>
Resolved	<b>12</b>
Deferred	<b>1</b>
Withdrawn	<b>3</b>
<b>TOTAL</b>	<b>46</b>





An tÚdarás Rialála  
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