



An tÚdarás Rialála
Seirbhísí Dlí
Legal Services
Regulatory Authority

Independent Complaints Handling



Complaints
about solicitors
and barristers

Report 2 - 2022

*From 5 March 2022
to 2 September 2022*

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Foreword by the Chief Executive Officer



Dr Brian J. Doherty

I am pleased to introduce the second 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 5 March 2022 to 2 September 2022.

The report is the sixth 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 1,350 phone calls and emails requesting complaints forms and other assistance. The complaints team opened 994 query files in the period of which 778 were upgraded to complaints. A total of 754 complaints were closed in the period, the outcomes of which are summarised in this report.

As I have mentioned in previous reports, the LSRA has increased the resources in our complaints function in order to deal with the high level of complaints that we continue to receive. We have recently recruited staff to assist with the mediation of complaints in order to increase our capacity to assist legal practitioners and complainants to successfully resolve the issues that may have led to a complaint being made to the LSRA.

The LSRA is also in the process of finalising a review of the resources and staffing currently available to it and will be shortly be submitting a request for sanction to the Department of Public Expenditure and Reform for further staff. This reflects our focus on improving the

experiences of both consumers and legal practitioners who engage in the complaints process, improving the timeliness of our response to complaints and ensuring a quality service for all.

I have repeatedly 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 that in this reporting period a total of 134 complaints were resolved between the parties in the pre-admissibility process through early engagement. As always, I encourage all legal practitioners to take a positive and proactive approach to resolving complaints as this can assist in having the matters dealt with in a timely and pragmatic manner. This approach not only benefits the legal practitioner and complainant but also can avoid protracted and costly investigations and reduces the costs of the LSRA which are passed on to all legal practitioners through the annual levy.

However, not all legal practitioners choose to engage with the LSRA in such a positive manner. In fact, there are some legal practitioners who choose not to engage with the complaints process until it is effectively too late.

Where it is not possible to resolve a complaint, including where the legal practitioner chooses not to engage with the informal resolution or mediation process, the LSRA then proceeds to 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.

There have recently been a small number of instances where the LSRA has made a determination in a complaint and issued a statutory direction to a legal practitioner, and the practitioner has chosen not to comply with the direction. In the rare cases where this occurs the LSRA will use its statutory powers and apply to the High Court for an order for compliance. The LSRA will also apply for an order covering any costs it has incurred. Indeed, in this reporting period, we have had cause to initiate High Court enforcement actions against legal practitioners. Where the LSRA makes a determination in a complaint and issues a statutory direction, I strongly advise legal practitioners to take action before we take them to court.

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.

As always I am very grateful to the dedicated complaints team of the LSRA for their hard work in considering, resolving and determining complaints. I am grateful also for the considerable efforts of the members of the independent Complaints Committee and the Review Committee who play a vital role in the LSRA's complaints function.

Dr Brian J. Doherty
November 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 sixth such report, and it reports on the period from 5 March 2022 to 2 September 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 complaint form is available on the LSRA website for download, along with information guides for the assistance of both consumers and legal practitioners. Complainants are encouraged to use the complaint form where possible.

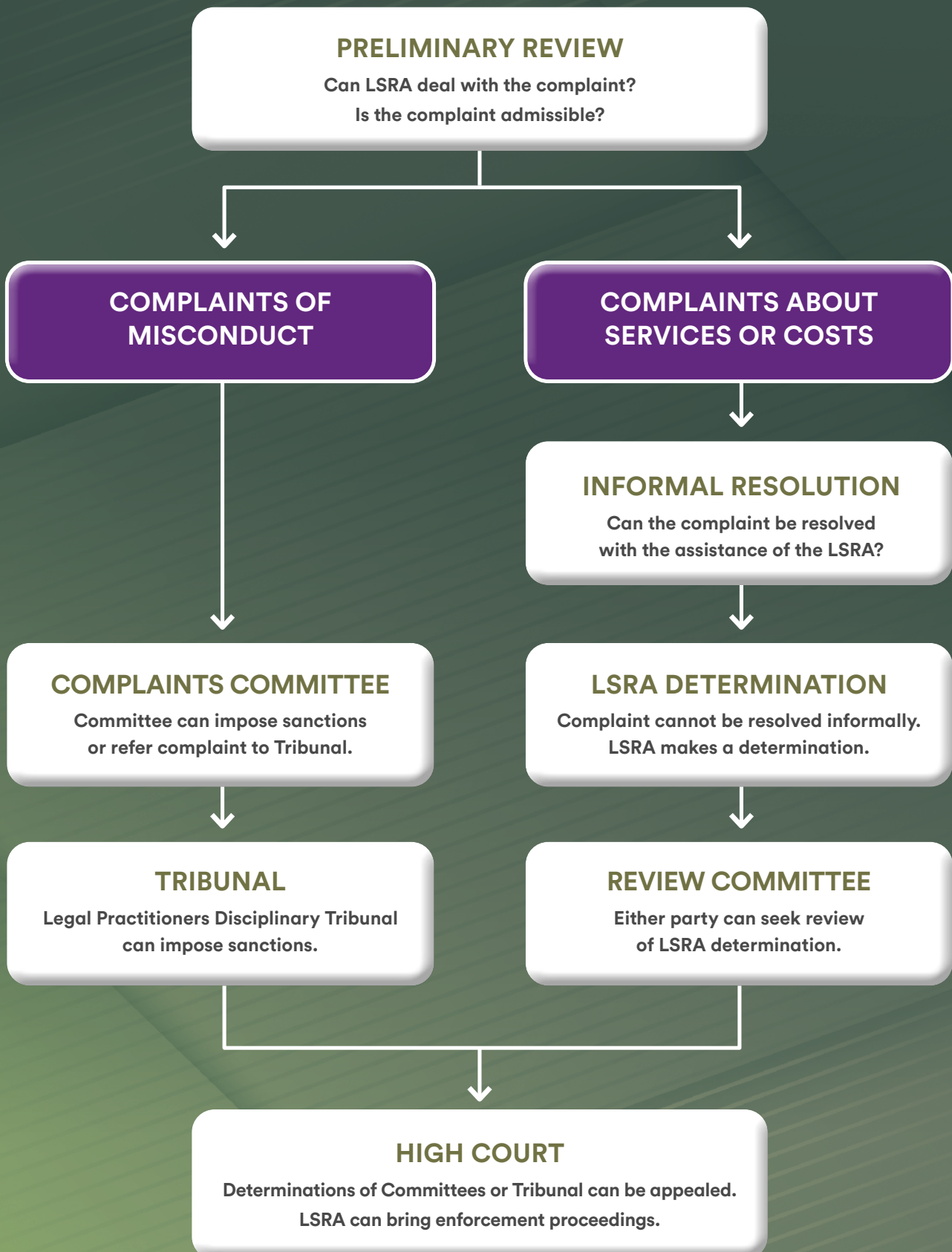
How we can assist

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).

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 on 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 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 Informal Resolution 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 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. They also meet on an ad hoc basis to consider individual complaints when it is necessary to do so.

The Complaints Committee can request that the complainant or legal practitioner supplies 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.**

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.

Legal practitioners should note the powers the Complaints Committee has under the Act to recover the costs of its investigations. 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 LSRA’s 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 referring a complaint to the LPDT. The Complaints Committee may direct that the failure to respond to correspondence from the LSRA be included as a further allegation of misconduct in the application to the LPDT.

Enforcement in the High Court

Where a legal practitioner fails to comply with either a determination or direction of the LSRA or a committee or an order of the LPDT, an application can be made to the High Court for an order compelling compliance.

These applications are made where any appeal period has expired and no evidence of compliance has been provided. In circumstances where the LSRA considers it necessary to apply to the High Court for an order, the LSRA will also seek an order for the payment of any costs incurred.

To date, the LSRA has made two successful enforcement applications under section 90 of the Act to the High Court. Further enforcement proceedings in a number of other complaints are currently under consideration. These will be reported on in more detail in future reports.

Number and Nature of Complaints Received

During the reporting period from 5 March 2022 to 2 September 2022, the LSRA received a total of 1,350 phone calls and e-mails requesting information and/or complaint forms. In addition a total of 994 files were opened initially as queries. Following assessment, a total of 778 were then categorised as complaints. Of the 778 complaints, a total of 759 related to solicitors and 19 related to barristers.

The largest category of complaints received related to alleged misconduct. A total of 521 complaints (67%) were in respect of alleged misconduct. A total of 228 complaints (29%) related to alleged legal services of an inadequate standard and a further 29 (4%) came under the category of alleged excessive costs (overcharging).

Complaints relating to alleged misconduct continue to be the highest proportion of the total (67% in this reporting period compared to 70% and 66% in the previous two reporting periods respectively). Complaints of inadequate legal services have fluctuated slightly (29% from 26% and 29% in the last two reporting periods). Meanwhile the proportion of complaints relating to excessive costs remains stable (4% in this reporting period and 4% and 5% 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 of complaints closed

A total of 754 complaints were closed in this reporting period. Of these, 294 (39%) were closed pre-admissibility – that is before a decision was made as to whether the complaint was admissible under the Act. A further 460 complaints (61%) were closed either at the admissibility decision stage or post-admissibility.

Of the 294 complaints closed in the pre-admissibility process, 134 were resolved by the parties with the assistance of the LSRA. In addition, 139 were withdrawn by the complainant. The consideration of a further two complaints was deferred due to ongoing related proceedings, and there were a further 19 complaints that could not proceed to admissibility for a variety of other reasons.

A total of 340 complaints were deemed to be inadmissible following consideration by the LSRA and closed. A further 10 were resolved with the assistance of the LSRA's trained mediation staff in the Informal Resolution process. One of these complaints however remains open with the Complaints Committee as it also contains allegations of misconduct.

A total of 41 complaints were closed as determined by the LSRA and 70 complaints were closed by the Complaints Committee.

All these outcomes are set out in tables in the Complaints Completion Statistics section of this report.

Informally resolved complaints

A total of 134 complaints were resolved by the parties with the assistance of the LSRA during the pre-admissibility stage – that is before a decision was made as to whether the complaint was admissible under the Act.

In addition, in a total of 76 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 eight complaints (11%), there was no response to the invitation by either the complainant or the legal practitioner. In 30 complaints (39%) the legal practitioner chose not to engage with the process and in 13 complaints (17%) the complainant chose not to engage.

In the reporting period a total of 10 complaints (13%) were resolved in the Informal Resolution process with the assistance of the LSRA's trained mediation staff. In 15 other complaints (20%), where both parties engaged in the Informal Resolution process, it was not possible to resolve the complaint.

Admissible complaints of inadequate legal services and excessive costs that are not resolved in the Informal Resolution process proceed to be determined by the LSRA.

LSRA determinations of complaints

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 where the 30 day review period has passed within the reporting period.

A total of 46 such determinations were made by the LSRA in this reporting period. Of these, 27 complaints were upheld and 19 were not upheld.

In 17 of the 27 upheld complaints, the legal practitioner was directed to pay compensation to the complainant of a sum not exceeding €3,000. The total amount of that compensation was €22,865.

By way of example, the determinations made by the LSRA included:

- **A complaint where the LSRA determined the legal costs charged to be excessive and the legal practitioner was directed to waive the remainder of the outstanding legal costs.**
- **A complaint where the LSRA determined that services provided were inadequate and the legal practitioner was directed to reconstitute the title deeds and transfer the property at his/her own expense.**
- **In a number of complaints the LSRA determined that the services provided were inadequate and the legal practitioners were directed to pay compensation to the clients of between €750 and €3,000.**

- A complaint where the LSRA determined that services provided were inadequate and the legal practitioner was directed to transfer the file to another legal practitioner and pay the client compensation of €3,000.
- A complaint where the LSRA determined that services provided were inadequate and the legal practitioner was directed to transfer the file to another legal practitioner and waive all costs.
- A complaint where the LSRA determined that services provided were inadequate and the legal practitioner was directed to rectify various issues at his/her own expense and pay the client compensation of €3,000.

LSRA determinations in previous reporting period

The LSRA can now report on 20 determinations that were made in the previous reporting period and which were still within the 30 day review period at the time of publication of the last complaints report.

By way of example, the determinations made by the LSRA included:

- A complaint where the LSRA determined that the legal costs charged to be excessive and the legal practitioner was directed to waive fees of €2,000.
- A complaint where the LSRA determined that services provided were inadequate and the legal practitioner was directed to provide regular updates to the complainant and pay compensation of €1,500.

- A complaint where the LSRA determined that services provided were inadequate and the legal practitioner was directed to complete the work, reduce the bill by €1,250 plus vat and complete the remainder of the work at his/her own expense.
- A number of complaints where the LSRA determined that services provided were inadequate and the legal practitioner was directed to transfer their client's file to another legal practitioner.
- A number of complaints where the LSRA determined that services provided were inadequate and the legal practitioners were directed to transfer their client's files to other legal practitioners and pay compensation between €1,000 and €3,000 and/or waive all or part of their legal charges.
- In one complaint the LSRA determined that the legal services provided were inadequate and the legal practitioner was directed to pay to the client €300 as compensation and to waive part of the costs by reducing the total bill of costs from €5,248 to €2,426.50.

Details of LSRA determinations that can now be reported on are set out in Table 2 in the Complaints Completion Statistics section of this report. This table comprises 20 determinations made in the previous reporting period and 24 of the 46 determinations made in the current reporting period.

Our next report will include details of those determinations made in the current reporting period that were still within the 30 day review period at the cut-off date for this report.

Review Committee outcomes

The Review Committee met on two occasions in the reporting period to consider LSRA determinations where reviews had been requested. A total of 10 complaints were reviewed by the committee. In seven complaints the review was requested by the complainant and in three the review was requested by the legal practitioner.

The Review Committee's determinations were as follows:

- In the seven reviews requested by complainants, five determinations made by the LSRA were confirmed by the Review Committee. In one complaint, the Review Committee directed that the amount of compensation be increased from €1,000 to €2,000. The Review Committee remitted the two other complaints to the LSRA for further consideration.
- In the three reviews requested by legal practitioners, one of the LSRA's determinations was confirmed. The Review Committee remitted two complaints to the LSRA for further consideration.

The Review Committee outcomes are set out in Table 3 in the Complaints Completion Statistics section of this report.

Complaints Committee outcomes

The Complaints Committee met on 28 occasions in the reporting period, considered 95 complaints at those meetings, and closed a total of 70. Those outcomes were as follows:

- **Twenty complaints were resolved by the parties. These complaints were resolved to the satisfaction of the complainant, and the Complaints Committee did not proceed with its investigation of those complaints.**
- Six complaints were referred by the Complaints Committee to the Legal Practitioners Disciplinary Tribunal (LPDT) for further investigation.
- A total of 24 complaints were not upheld by the Complaints Committee.
- Seven complaints were withdrawn by the complainant and the Complaints Committee did not proceed with its investigation.
- The investigation of two complaints were discontinued due to the death of one of the parties.
- A total of 11 complaints were upheld by the Complaints Committee and directions issued. By way of example, the directions made by the Complaints Committee included:
 - In four complaints the committee directed the legal practitioner to transfer their clients' files to another legal practitioners and waive fees.
 - In two complaints the committee directed the legal practitioners to pay compensation to the clients of €500 and €1,000.
 - In two complaints the committee directed the legal practitioners to pay costs to the LSRA of €1,000 and €1,500.

The Complaints Committee directions and referrals are set out in Table 4 in the Complaints Completion Statistics section of this report.

Themes Emerging from Complaints

In this report the LSRA highlights the following issues:

Failure by legal practitioners to engage with LSRA may lead to court enforcement action

The investigation of complaints in a timely fashion is dependent upon both parties providing information when they are required to do so. There have been a number of occasions where the legal practitioner complained about has failed to engage with the LSRA promptly or at all.

Legal practitioners who seek to delay or frustrate the investigation of complaints that have been made against them should be aware that, although it might delay the investigation, the LSRA will when necessary bring an application to the High Court to enforce compliance. In all cases the LSRA will also seek the recovery of the costs incurred in bringing the enforcement application to the court. In some cases those costs might exceed the amounts at issue in the complaint.

Warning to solicitors over lost title deeds and wills

Clients often ask their solicitors to retain title deeds, wills and other important documents so that they can be sure that they are being kept safely. Solicitors are aware that these are the clients' property and that they are of considerable importance. The LSRA is surprised therefore how often in the investigation of a complaint the solicitor admits that documents have been lost. In a well-managed solicitor's practice that simply should not happen. Solicitors are aware of the costs involved in trying to reconstitute title deeds, and the huge difficulties faced by executors where the original will is missing.

From the investigation of complaints, this problem often occurs as a result of a solicitor changing firms and taking files and deeds to the new firm. That should only happen with the agreement of the firm and the written consent of the client. Files should also be checked to ensure that there are no undertakings still outstanding. If there is an outstanding undertaking to a mortgage lender, the file should either not be transferred at all, or at least not without the written agreement of the mortgage lender.

How we work and what to expect

From the feedback we receive it is clear that some complainants require assistance in making their complaint, completing our complaint form, and understanding the complaints handling process. Likewise some legal practitioners have difficulties in responding to a complaint that has been made against them. We want to encourage both parties to engage fully with the complaints process and to access available supports where necessary.

As an independent statutory regulator, the LSRA does not provide legal advice to either complainants or legal practitioners. However, external supports are available.

Supports for complainants

There is a considerable amount of information on our website and complainants can also seek help from their local Citizens Information Centre. Complainants can authorise someone else to complete and submit their complaint to us. That might be a trusted family member or friend, or a solicitor.

Notification of complaints to legal practitioners is mandatory

Legal practitioners must appreciate that complaints are part of modern life and can happen at any career stage. During the preliminary review stage of the LSRA's complaints process, we are required by the Act to share full details of complaints received with the legal practitioners and invite their observations. This step must be taken prior to the LSRA making an assessment as to whether a complaint is admissible under the Act or not.

Notice of a complaint from the LSRA to a legal practitioner does not mean that the LSRA has already determined that a complaint is admissible. There might be reasons why the complaint is inadmissible under the Act, or capable of quick resolution in advance of any decision on its admissibility being made. It is also possible that at preliminary review stage the complaint will be deemed to be admissible. What is certain as an outcome is that a legal practitioner who ignores a complaint from us at this early stage will not succeed in making it go away.

Supports for legal practitioners

Legal practitioners who have received notice of a complaint from the LSRA may wish to consult a colleague informally for assistance. Other supports available include those provided by the representative bodies for solicitors and barristers.

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.

Complaint to LSRA prompted quick informal resolution of services complaint

Type of Complaint: *Inadequate Legal Services*

The complainant instructed the solicitor to draft his will and to register his purchase of a property. More than a year passed and the client had not received any confirmation from the solicitor that these actions had been carried out.

Outcome:

The LSRA received the complaint and sent it to the solicitor who immediately engaged directly with the client to resolve the matter.

Lessons for the Public

If you believe you have grounds for a complaint, and your communications with your solicitor are being ignored, then you should advise the solicitor that you intend to make a complaint to the LSRA. This might prompt a quick resolution of your complaint.

Lessons for Practitioners

Your clients need to be kept updated, even if this means explaining any reasons for delays in carrying out their instructions. Regular communication with clients can mean that complaints are avoided altogether.

Solicitor who provided inadequate legal services to client ordered by the High Court to comply with LSRA's direction

Type of Complaint: Inadequate Legal Services

The solicitor was acting for the complainant in family law proceedings over a number of years. There was a long period without any communication between the parties, with the solicitor failing to return phone calls or reply to emails. The solicitor eventually agreed to assign a new member of staff to handle matters. There was some activity, but the new solicitor then left the firm and communication broke down again.

Outcome:

The LSRA invited both parties to try to resolve matters informally. However, the solicitor did not respond to this invitation. This meant that the complaint was sent forward for the LSRA to make a determination. As part of this process, both parties were asked to submit statements to the LSRA. Once again, the solicitor did not respond.

The LSRA's found that the legal services provided by the solicitor were of an inadequate standard. The solicitor was directed to transfer all documents relating to the complainant's court proceedings to a solicitor nominated by the client within 30 days. The solicitor continued to be unresponsive and did not confirm compliance with the LSRA's direction. The LSRA then applied to the High Court for an order directing the solicitor to comply with its direction. The High Court made this order, and also ordered the solicitor to pay the LSRA's costs for having to take the High Court action.

Lessons for the Public

When you engage the services of a solicitor, you are entitled to expect that your instructions will be carried out and that the solicitor will communicate with you promptly and professionally.

Lessons for Practitioners

Do not ignore your client. Had the solicitor engaged with the complainant this matter may have been resolved. You should also communicate with the LSRA in relation to a complaint and comply fully with any directions, otherwise you run the risk of being directed to do so by an order of the High Court.

Complaint against solicitor over excessive costs informally resolved with assistance of LSRA

Type of Complaint: Excessive Costs

The complainant instructed the solicitor to act for him in relation to a criminal law matter before the District Court. After the court case finished the complainant received a bill from the solicitor. There was disagreement between the parties as to extent of the work done by the solicitor and the prior information that was given regarding the costs. The complainant, having paid the bill in full, then brought a complaint to the LSRA.

Outcome:

Both parties agreed to the LSRA's invitation to engage in the informal resolution process. The complaint was resolved informally and the parties came to an agreement on revised costs.

Lessons for the Public

If you are invited by the LSRA to participate in the informal resolution process, you should do so as this gives you the best chance to resolve your complaint quickly and in the way that you want.

Lessons for Practitioners

In order to avoid disagreement between you and your client about your bill, it is good practice to ensure that your client acknowledges receipt of your notice about your proposed charges. If a client disputes any aspect of your bill, you are obliged to try to resolve it with them directly in order to avoid complaints of this sort.

Review Committee increased compensation to client of solicitor who provided inadequate legal services

Type of Complaint: *Inadequate Legal Services*

The complainant instructed the solicitor to bring a personal injury claim. The complainant was dissatisfied with the progress of the legal action and the lack of communication from the solicitor. The complainant then learned that the solicitor handling his case had left the firm and the case was not being progressed.

Outcome:

Both parties agreed to try to resolve the complaint informally, but did not reach an agreement. The complaint therefore proceeded to be determined by the LSRA. The LSRA found that the legal services provided were of an inadequate standard and directed the solicitor to pay €1,000 in compensation to the complainant. The complainant sought a review of the compensation award. The Review Committee increased the compensation to the client to €2,000.

Lessons for the Public

You have the right to seek a review of the LSRA's decision in your complaint. The Review Committee has the power to confirm or vary an LSRA determination or to send a complaint back to be reconsidered.

Lessons for Practitioners

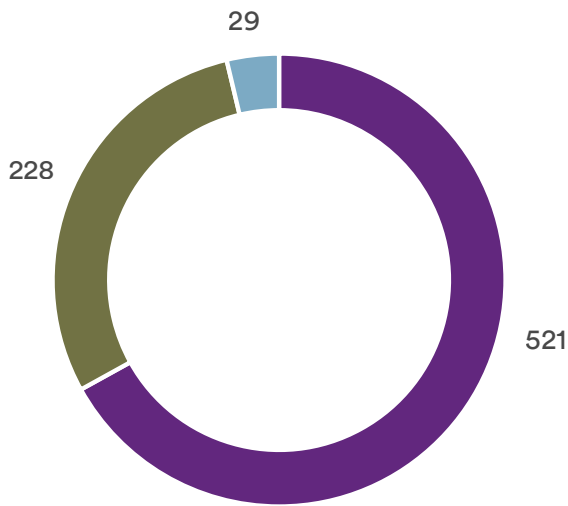
You need to have clear lines of communication with your client in order to obtain instructions and progress their case. If that is not possible, the solicitor/client relationship has broken down and it might be necessary to apply to come off the court record as acting for the client.

Statistical Breakdown of Complaints

Complaints Received

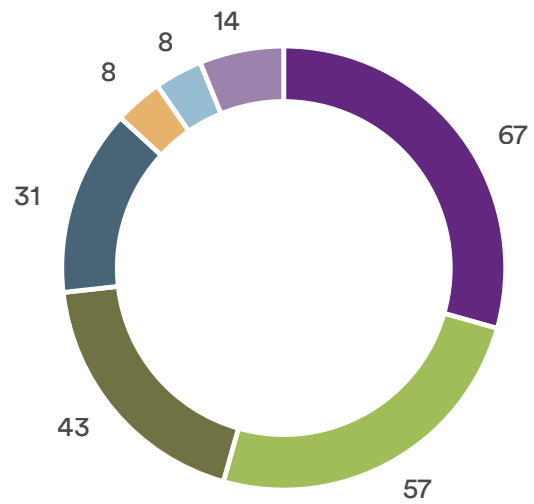
From 5 March 2022 to 2 September 2022

All Complaints



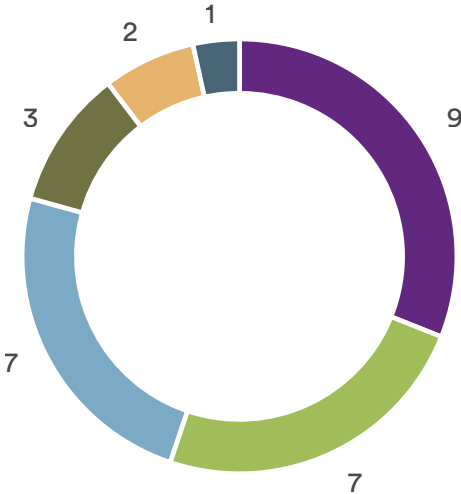
● Misconduct	521	(67.0%)
● Inadequate Services	228	(29.3%)
● Excessive Costs	29	(3.7%)
TOTAL	778	

Legal Services of an Inadequate Standard



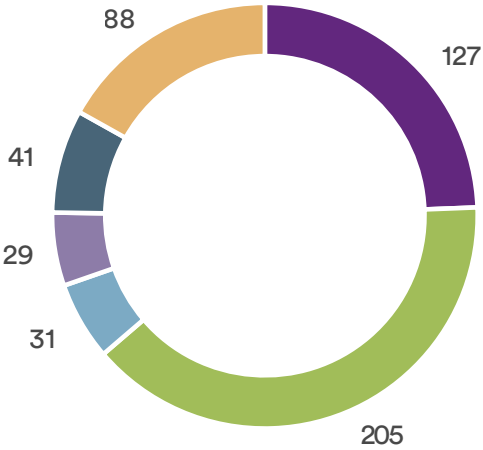
● Litigation	67	(29.4%)
● Conveyancing	57	(25.0%)
● Probate	43	(18.9%)
● Family	31	(13.6%)
● Crime	8	(3.5%)
● Employment	8	(3.5%)
● Other	14	(6.1%)
TOTAL	228	

Excessive Costs



● Litigation	9	(31.0%)
● Family	7	(24.1%)
● Conveyancing	7	(24.1%)
● Probate	3	(10.3%)
● Employment	2	(6.9%)
● Other	1	(3.4%)
TOTAL	29	

Misconduct



● Undertaking	205	(39.3%)
● Conduct bringing the profession into disrepute	127	(24.4%)
● Failure to hand over	31	(6.0%)
● Failure to account	29	(5.6%)
● Failure to communicate	41	(7.9%)
● Other	88	(16.9%)
TOTAL	521	

Complaints Completion Statistics

Complaints Closed from 5 March 2022 to 2 September 2022

TABLE 1: Summary of Case Completions

Complaints Closed Pre-Admissibility	
Resolved with assistance of LSRA	134
Withdrawn	139
Deferred	2
No Longer Practising	3
Other	16
Total complaints closed pre-admissibility	294
Complaints Closed At or Post-Admissibility	
Inadmissible	340
Determined by LSRA	41
Resolved in Informal Resolution	9
Closed by Complaints Committee	70
Total complaints closed at or post-admissibility	460
TOTAL COMPLAINTS CLOSED	754

TABLE 2: Complaints Determined by LSRA Complaints Staff

No.	Date of LSRA Determination	Upheld/Direction to Legal Practitioner	Section of the Act
1	07/09/2021	Waive €2,000 of the fee note/costs	s61 (6) (b)
2	23/09/2021	Respond fully to the client's queries, furnish fortnightly updates to the client and pay to the client a sum not exceeding €1,500 as compensation	s60 (6) (a) and (d)
3	21/10/2021	Carry out the instructions of the executor and distribute the assets of the estate, reduce the bill of costs by €1,250 plus VAT and the remainder of the work of distribution be carried out at own expense	s60 (6) (b) and s61 (6) (b)
4	27/10/2021	Transfer any documents to another legal practitioner	s60 (6) (c)
5	01/11/2021	Waive any fees accrued to date and transfer any documents to another legal practitioner and pay to the client €1,000 as compensation	s60 (6) (b), (c) and (d)
6	03/11/2021	Transfer any documents to another legal practitioner and pay to the client €3,000 compensation	s60 (6) (c) and (d)
7	03/11/2021	Transfer any documents to another legal practitioner and pay to the client €3,000 as compensation	s60 (6) (c) and (d)
8	02/12/2021	Not Upheld	
9	16/12/2021	Not Upheld	
10	05/01/2022	Transfer any documents to another legal practitioner and no costs to be sought from the client	s60 (6) (c)

TABLE 2: (Continued)

No.	Date of LSRA Determination	Upheld/Direction to Legal Practitioner	Section of the Act
11	11/01/2022	Furnish a copy of the query raised by the Property Registration Authority (PRA) together with the response to the LSRA, to fully address any further queries raised by the PRA and pay to the client a sum of €2,000 as compensation	s60 (6) (a) and (d)
12	19/01/2022	Pay to the client €300 as compensation and waive part of the costs by reducing the total bill of costs from €5,248 to €2,426.50	s60 (6) (d) and s61 (6) (b)
13	02/02/2022	Pay to the client €3,000 as compensation	s60 (6) (d)
14	02/02/2022	Confirm the up to date position regarding the return of the deeds of the property to the bank and provide updates to the complainant every two weeks and to pay to the client a sum of €750 as compensation	s60 (6) (b) and (d)
15	09/02/2022	Upheld, no direction made	
16	09/02/2022	Confirm that the administration of both estates has concluded and monies distributed and pay to the client €2,000 as compensation	s60 (6) (b) and (d)
17	19/02/2022	Transfer any documents to another legal practitioner and pay to the client €1,000 as compensation	s60 (c) and (d)
18	25/02/2022	Not Upheld	
19	25/02/2022	Not Upheld	
20	01/03/2022	Not Upheld	

TABLE 2: (Continued)

No.	Date of LSRA Determination	Upheld/Direction to Legal Practitioner	Section of the Act
21	02/03/2022	Not Upheld	
22	09/03/2022	Reconstitute the title deeds and transfer the property at own expense	s60 (6) (a)
23	14/03/2022	Pay to the client €1,000 as compensation	s60 (6) (d)
24	15/03/2022	Pay to the client €750 as compensation	
25	16/03/2022	Pay to the client €3,000 as compensation	s60 (6) (d)
26	23/03/2022	Pay to the client €1,000 as compensation	s60 (6) (d)
27	28/03/2022	Not Upheld	
28	28/03/2022	Pay to the client €1,000 as compensation	s60 (6) (d)
29	28/03/2022	Revisit and correct any errors in the property title which are the subject of the complaint	s61 (6) (a)
30	30/03/2022	Transfer any documents to another legal practitioner and pay to the client €3,000 as compensation	s60 (6) (c) and (d)
31	04/04/2022	Upheld, no direction made	
32	06/04/2022	Transfer any documents to another legal practitioner and not seek any costs	s60 (6) (c)
33	13/04/2022	Not Upheld	
34	13/04/2022	Pay to the client €615 as compensation	s60 (6) (d)
35	13/05/2022	Not Upheld	
36	09/06/2022	Not Upheld	

TABLE 2: (Continued)

No.	Date of LSRA Determination	Upheld/Direction to Legal Practitioner	Section of the Act
37	23/06/2022	Waive wholly the remainder of the outstanding fee note of €4,567.04 and refund in part €307.50 paid by or on behalf of the client in respect of the practitioner's costs in connection with the bill of costs	s61 (6) (a) and (b)
38	01/07/2022	Not Upheld	
39	02/07/2022	Not Upheld	
40	02/07/2022	Not Upheld	
41	02/07/2022	Secure the rectification, at own expense or at the expense of the firm of the stamping of the deed and pay to the client €3,000 as compensation	s60 (6) (a) and (d)
42	02/07/2022	Pay to the client €500 as compensation	s60 (6) (d)
43	06/07/2022	Waive professional fee in full and transfer any documents to another legal practitioner	s60 (6) (c)
44	12/07/2022	Provide a full set of the final estate accounts and pay the professional fees up to a maximum of €3,000	s60 (6) (a) and (d)

TABLE 3: Review Committee Outcomes

No.	Date of LSRA Determination	LSRA Direction	Date of Review Committee Meeting	Outcome
1	07/09/2021	Waive €2,000 of the fee note/costs	09/06/2022	Confirmed LSRA determination s62 (5) (a)
2	02/12/2021	Not Upheld	09/06/2022	Confirmed LSRA determination s62 (5) (a)
3	09/02/2022	Confirm when the administration of both estates has concluded and monies distributed and pay to the client compensation of €2,000	09/06/2022	Remitted to the LSRA for further consideration
4	18/02/2022	Not Upheld	09/06/2022	Remitted to LSRA for further consideration
5	25/02/2022	Not Upheld	09/06/2022	Confirmed LSRA determination s62 (5) (a)
6	02/03/2022	Not Upheld	09/06/2022	Confirmed LSRA determination s62 (5) (a)
7	15/03/2022	Pay to the client €3,000 as compensation	09/06/2022	Confirmed LSRA determination s62 (5) (a)
8	23/03/2022	Pay to the client €1,000 as compensation	09/06/2022	Remitted to the LSRA for further consideration
9	28/03/2022	Pay to the client €1,000 as compensation	09/06/2022	Confirmed LSRA determination s62 (5) (a) and additional €1,000 compensation to be paid to client
10	30/03/2022	Pay to the client €2,000 as compensation	09/06/2022	Remitted to the LSRA for further consideration

TABLE 4: Complaints Committee Directions and Referrals

No.	Date of Committee Meeting	Nature of Complaint	Determination
1	14/04/2022	Inadequate services	Upheld - direction s71 (5) (g) Pay €500 compensation to client
2	14/04/2022	Facilitating the breach of prison rules	Upheld - direction s71 (5) (h) Pay costs of €1,000 to the LSRA
3	26/05/2022	No evidence submitted of compliance with s68 (1) of the Solicitors (Amendment) Acts 1994	Upheld - no direction
4	26/05/2022	No evidence submitted of compliance with s68 (1) of the Solicitors (Amendment) Acts 1994	Upheld - no direction
5	26/05/2022	The complainant was not advised of an increase in professional fees prior to receiving the request for payment	Upheld - direction s71 (5) (g) Refund of €300 to client
6	26/05/2022	Failure to provide a bill of costs and failure to communicate	Referred to LPDT s71 (7)
7	02/06/2022	Failure to comply with undertaking	Referred to LPDT s71 (7)
8	02/06/2022	Seeking costs that cannot be defined as legal services	Referred to LPDT s71 (7)
9	08/06/2022	Failure to pay counsel's fees	Referred to LPDT s71 (7)
10	08/06/2022	Inadequate services	Upheld - direction s71 (5) (d) Hand over file

TABLE 4: (Continued)

No.	Date of Committee Meeting	Nature of Complaint	Determination
11	08/06/2022	Failure to carry out instructions	Upheld - directions s71 (5) (a) and s71 (5) (c) Arrange for the completion of the legal service and waive the fees
12	08/06/2022	Failure to provide the full balance of money remaining from the sale/ purchase, failure to provide a bill of costs and some of the title documents	Upheld - direction s71 (5) (g) Pay €1,000 as compensation to client
13	07/07/2022	Delay in dealing with a claim	Upheld - direction s71 (5) (d) Hand over files
14	07/07/2022	Failure to pay expert's fees	Upheld - direction s71 (5) (i) Pay costs of €1,500 to the LSRA
15	20/07/2022	Failure to pay counsel's fees	Referred to LPDT s71 (7)
16	20/07/2022	Failure to hand over files	Upheld - directions s71 (5) (d) and s71 (5) (c) Hand over file and waive fees
17	01/09/2022	Failure to fully account in probate	Referred to LPDT s71 (7)



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