



An tÚdarás Rialála  
Seirbhíse Dlí  
Legal Services  
Regulatory Authority

# Independent Complaints Handling

Complaints  
about solicitors  
and barristers

**Report 1 - 2023**

*From 3 September 2022  
to 3 March 2023*

# Contents

|  |           |
|--|-----------|
| Foreword                                 | <b>4</b>  |
| Introduction                             | <b>6</b>  |
| Independent Complaints Handling          | <b>7</b>  |
| Complaint Journey                        | <b>9</b>  |
| The Complaints Process                   | <b>10</b> |
| Number and Nature of Complaints Received | <b>15</b> |
| Complaints Outcomes                      | <b>16</b> |
| Themes Emerging from Complaints          | <b>21</b> |
| Case Studies                             | <b>22</b> |
| Statistical Breakdown of Complaints      | <b>28</b> |
| Complaints Completion Statistics         | <b>30</b> |

# Foreword by the Chief Executive Officer



**Dr Brian J. Doherty**

I am pleased to introduce the first bi-annual report of 2023 into the operation of the independent complaints function of the Legal Services Regulatory Authority. This report documents trends, themes and statistics from 3 September 2022 to 3 March 2023.

The report is the seventh 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 1,509 phone calls and emails requesting complaints forms and other assistance. The complaints team opened 809 query files in the period of which 595 were upgraded to complaints. A total of 596 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 handling department in order to deal with the high level of complaints that we continue to receive. We have also recently finalised a review of our resources and staffing and have submitted this review to the Department of Public Expenditure and Reform as part of a request for sanction for further staff. As I have stated before, the LSRA is focused on improving the experiences of both consumers and legal practitioners who engage in the complaints process, improving the timeliness of our responses 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 report that in this reporting period a total of 83 complaints were resolved between the parties in the pre-admissibility process through early engagement. A further 13 complaints were resolved with the assistance of the LSRA's trained mediators. We focus on mediation and the informal resolution of complaints as a theme in this report and in the case studies.

There is a clear benefit to both legal practitioners and to complainants of taking a positive and proactive approach to resolving complaints as this 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.

Unfortunately, not all legal practitioners choose to engage with the LSRA in such a positive manner.

There has recently been a small but growing 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. Indeed, in this reporting period, as in the last, we have again had cause to initiate High Court enforcement actions against legal practitioners who have not complied with directions.

Legal practitioners should be aware that where this occurs the LSRA will use its statutory powers and apply to the High Court for an order for compliance. In such actions, the LSRA will also routinely apply for an order covering its own legal costs as otherwise these costs fall to be included in the annual levy on the professions through which the LSRA is funded. In effect, where legal practitioners fail to engage with the LSRA or to comply with statutory directions, the cost is borne to a large extent by their colleagues.

Once again I would strongly advise legal practitioners to take action where the LSRA makes a determination in a complaint and issues a statutory direction. If not, we will take them to court.

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 also grateful 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**  
**March 2023**

# 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 seventh such report, and it reports on the period from 3 September 2022 to 3 March 2023.

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 function, 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.

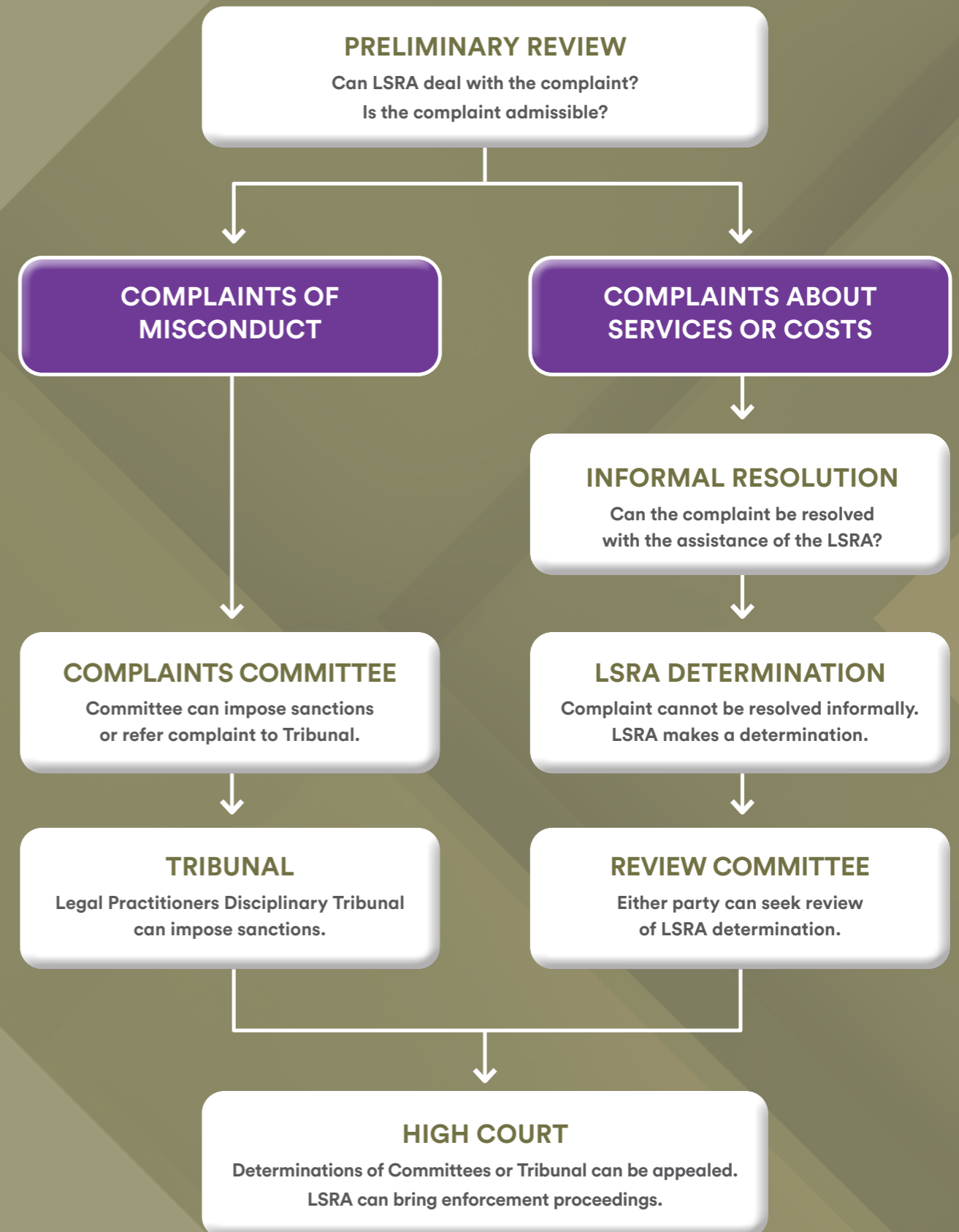
## How we can assist

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. In addition to our website resources, the LSRA has developed a new Guide to our Complaints Service which will be made available via Citizens Information Offices nationwide in the coming months.

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 for people with Disabilities.

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 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), 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 of Ireland, 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 does not make findings of misconduct. It 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.

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 a determination of the LSRA, a committee or the LPDT, an application can be made to the High Court by the LSRA for an order directing compliance.

These enforcement applications under section 90 of the Act are made where any appeal period has expired and no evidence of compliance by a legal practitioner has been provided. In circumstances where the LSRA considers it necessary to apply to the President of the High Court for a section 90 order, the LSRA will also seek an order for the payment of the costs incurred in doing so.

## Legal Practitioners Disciplinary Tribunal

The Legal Practitioners Disciplinary Tribunal (LPDT) is an independent statutory tribunal established under section 74 of the Legal Services Regulation Act 2015. It considers complaints of alleged misconduct referred to it by the LSRA or the Law Society of Ireland. It does not accept direct applications from complainants or from other parties.

The LPDT has 33 members. Its current members including its Chairperson, were appointed by the President of the High Court in November 2020. Its membership consists of 21 lay members, six solicitors and six barristers. It sits in divisions of a minimum of three members, with a lay majority including a lay chair.

Where an application is made to the LPDT there will be an inquiry, generally with oral evidence, and held in public. The LPDT has the same rights and powers as the High Court regarding the enforcement of the attendance of witnesses, as well as the production and the discovery of documents. It can subpoena witnesses to attend and give evidence, including under cross-examination.

The LPDT is the successor body to the Solicitors Disciplinary Tribunal and the Barristers Professional Conduct Tribunal. The LPDT's determinations will be published by the LSRA.

Where the LPDT makes a finding of misconduct, it can impose a wide range of sanctions. These include:

- **Imposing an advice, admonishment or censure on the legal practitioner;**
- **Directing the legal practitioner to participate in one or more professional competence schemes;**
- **Directing the legal practitioner to waive or refund costs;**
- **Directing the legal practitioner to complete certain legal services;**
- **Imposing conditions on the legal practitioner's practising certificate;**
- **Imposing a range of monetary sanctions, the total amount of which cannot exceed €15,000;**
- **Making a recommendation to the High Court that the legal practitioner be restricted in the type of work they can do;**
- **Making a recommendation to the High Court that the legal practitioner be prohibited from practising without supervision;**
- **Making a recommendation to the High Court that the practitioner be suspended from practice or struck off permanently from the Roll of Solicitors.**

The LPDT is due to start holding inquiries in 2023.

## Number and Nature of Complaints Received

During the reporting period from 3 September 2022 to 3 March 2023, the LSRA received a total of 1,509 phone calls and e-mails requesting information and/or complaint forms.

A total of 809 files were opened initially as queries. Following assessment, a total of 595 files were then categorised as complaints. Of the 595 complaints, a total of 576 related to solicitors and 19 related to barristers. This is a decrease of 24% in the total number of complaints received in this reporting period compared with the previous one, when 778 complaints were received. This drop is in part due to the fact that the LSRA is no longer receiving complaints about solicitors from two financial institutions which have now withdrawn from the Irish market.

The largest category of complaints received related to alleged misconduct, with 374 complaints accounting for 63% of the total. A further 195 complaints (33%) related to legal services of an inadequate standard and a further 26 (4%) came under the category of excessive costs (overcharging).

While the total number of complaints closed was 596, the total number of outcomes was 597. The outcome of one misconduct complaint is counted twice as the complaint was dealt with under two separate categories.

Complaints relating to alleged misconduct continue to be the highest proportion of the total (63% in this reporting period compared to 67% and 70% in the previous two reporting periods respectively). Complaints of inadequate legal services have gone up (33% from 29% and 26% in the last two reporting periods, respectively). The proportion of complaints relating to excessive costs remains consistently low (4% in this reporting period and also 4% 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 596 complaint files were closed in this reporting period. Of these, 163 (27%) were closed pre-admissibility – that is before a decision was made as to whether the complaint was admissible under the Act – and 433 complaints (73%) were closed either at the admissibility stage or post-admissibility.

Of the 163 complaints closed pre-admissibility, 83 were resolved by the parties with the assistance of the LSRA. In addition, 29 were withdrawn by the complainant. The consideration of a further 51 complaints was deferred due to ongoing court proceedings or for a variety of other reasons.

Of the 433 complaints closed either at the admissibility stage or post-admissibility. Of these:

- 35 complaints were closed as determined by the LSRA
- 95 complaints were closed by the Complaints Committee.
- 291 complaints were found to be inadmissible and closed.
- 13 complaints were resolved with the assistance of the LSRA's trained mediation staff in the Informal Resolution process (see below for a breakdown of complaints put forward for Information Resolution).

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

## Informally Resolved complaints

In a total of 67 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 statutory Informal Resolution process. Of these:

- In five complaints there was no response to the invitation by either the complainant or the legal practitioner.
- In 13 complaints the legal practitioner chose not to engage with the process.
- In 11 complaints the complainant chose not to engage.
- A total of 13 complaints were resolved.
- In 25 complaints both parties engaged in the Informal Resolution process but it was not possible to resolve the complaint.

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

## LSRA determinations of complaints in current reporting period

A total of 59 determinations were made by the LSRA in this reporting period. Of these, 36 complaints were upheld and 23 were not upheld.

In 21 of the 36 upheld complaints, the legal practitioner was directed to pay compensation to the complainant of up to €3,000. The total amount of that compensation was €36,200.

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

- A complaint where the LSRA determined the legal costs charged were excessive, the legal practitioner was directed to refund costs of €4,083.75 to the client.
- A complaint where the LSRA determined that the legal services provided were inadequate, the legal practitioner was directed to pay a €3,000 contribution to the legal costs of new solicitors retained by the complainant, and also to pay €3,000 in compensation.
- In a number of complaints the LSRA determined that the legal services provided were inadequate and the legal practitioners were directed to pay compensation to the clients of between €200 and €3,000.

- A complaint where the LSRA determined that the legal services provided were inadequate, the legal practitioner was directed to waive any professional fee, transfer the client's file to another legal practitioner and pay €3,000 in compensation.
- A complaint where the LSRA determined that the legal services provided were inadequate, the legal practitioner was directed to pay the legal costs of new solicitors retained by the complainant of €6,759.42, and also to pay €3,000 in compensation.
- A complaint where the LSRA determined the legal costs charged were excessive, the legal practitioner was directed to waive an instruction fee of €14,000.
- A complaint where the LSRA determined that the legal services provided were inadequate, the legal practitioner was directed to rectify various issues at his/her own expense, complete the application for registration of the client's property and pay the client compensation of €3,000.

Either party to a complaint can seek a review of the LSRA's determinations within 30 days of notification (the review period). These are carried out by the Review Committee. 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.

## LSRA determination of complaints in previous reporting period

The LSRA can now report on 12 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 the legal costs charged were excessive, the legal practitioner was directed to reduce fees by €1,382.50 and issue a revised bill.
- A complaint where the LSRA determined that the legal services provided were inadequate, the legal practitioner was directed to refund fees of €3,750 and pay €3,000 in compensation to the client.
- A complaint where the LSRA determined the legal costs charged were excessive, the legal practitioner was directed to refund fees of €2,750 to the client.
- In a number of complaints where the LSRA determined that the legal services provided were inadequate and legal practitioners were directed to transfer their clients' files to other legal practitioners and pay compensation between €1,000 and €3,000 and/or waive all or part of their legal charges.

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.

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 twice in the reporting period to consider LSRA determinations where reviews were requested. A total of 15 complaints were reviewed, with 12 reviews determined and the consideration of three complaints were adjourned.

The Review Committee's 12 determinations were as follows:

- Eleven LSRA determinations were confirmed. In two of these, the Review Committee increased the amounts of compensation awarded to the complainant.
- One complaint was remitted back to the LSRA with a direction that its determination be set aside.

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

## Complaints Committee outcomes

The Complaints Committee met on 23 occasions in the reporting period. It considered 125 complaints of alleged misconduct and closed a total of 95. Those outcomes were as follows:

- 13 complaints were referred by the Complaints Committee to the Legal Practitioners Disciplinary Tribunal (LPDT) for further investigation.
- 40 complaints were not upheld.
- 19 complaints were either withdrawn by the complainant or the investigation was discontinued for a range of reasons.
- 6 complaints were upheld and directions were issued. These included directions to practitioners to pay a total of €7,500 in compensation to complainants and to pay €1,500 in costs to the LSRA.
- 17 complaints were resolved by the parties.

The Complaints Committee outcomes are set out in Table 4 in the Complaints Completion section of this report.

## Enforcement in the High Court

During the period covered by this report, the LSRA increased the number of instructions to external legal representatives for enforcement actions against legal practitioners under section 90 of the Act. These High Court actions are for an order to direct a legal practitioner to comply with the LSRA's decisions. The LSRA secured three enforcement orders from the President of the High Court during this period. In addition, four enforcement actions were settled, with the legal practitioners agreeing to make a payment towards the LSRA's legal costs. The LSRA recovered a total of €11,000 in legal costs in this period.

The three actions in which High Court orders were secured related to the following complaints:

- A complaint of legal services of an inadequate standard alleging failure to reply to emails and telephone calls in relation to a personal injury case. The solicitor was directed to transfer documents to another legal practitioner nominated by the client and pay the client €3,000 in compensation.
- A complaint of legal services of an inadequate standard in relation to the purchase of a property. It was alleged that the registration of the property was not concluded and the solicitor was not replying to calls or emails. The solicitor was directed to address queries arising until the complainant's application for registration with the Property Registration Authority was completed. The solicitor was also directed to pay the client €2,000 in compensation.

- A complaint of legal services of an inadequate standard in relation to a criminal injuries compensation case regarding an assault on a minor. The solicitor allegedly promised to gather/receive reports and documentation to advance the matter, but at some point ceased communications with the Complainant. The solicitor was directed to transfer documents to the complainant or another legal practitioner nominated by the complainant, to waive all legal fees and to pay the client €3,000 in compensation.

## LSRA Applications to LPDT

During the period covered by this report the LSRA made six applications to the LPDT to hold an inquiry into misconduct complaints referred to it by the Complaints Committee. The LSRA will report all LPDT outcomes in so far as they relate to applications made by the LSRA in future reports.

# Themes Emerging from Complaints

In this report the LSRA highlights the following issues:

## Increase in legal practitioners engaging with Informal Resolution

The LSRA is required under the Act to invite legal practitioners and complainants to make efforts to resolve matters in admissible complaints that 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.

The LSRA has qualified mediators trained to assist the parties to a complaint to find a resolution to the issues raised. Our mediators are affiliated to the Mediator's Institute of Ireland. The LSRA also has a panel of external mediators that can be called upon to assist.

In this reporting period, there was an increase in the number of legal practitioners who engaged with the Informal Resolution process. While the numbers of complaints in which Informal Resolution has been successful remains relatively modest, the LSRA continues to encourage the early resolution of complaints where appropriate. The resolution of a complaint between the parties is often more preferable to a complaint being determined by the LSRA and a possible sanction being directed.

## Disputes over money the focus of many complaints

Disputes over money are the focus of many of the complaints that the LSRA receives. Solicitors' clients often complain that money due to them has not fully been accounted for, and that is investigated by us as alleged misconduct.

Solicitors should be aware that in these circumstances the LSRA can refer such complaints to the Law Society of Ireland under section 59 of the Act, and request that it carries out its own investigation under the Solicitors Acts 1954 to 2015.

These referrals are only in complaints involving complex financial matters or those that suggests more widespread issues in the management of a law firm's finances. In such circumstances, the matter is likely to be investigated by one of the Law Society's Investigating Accountants and a report prepared for the LSRA's Complaints Committee.

Solicitors should also be aware that, although the LSRA and Law Society operate entirely independently of each other in our regulatory duties, there are important areas of interaction. For example, the LSRA is obliged under section 51(7) of the Act to notify the Law Society of all complaints it receives about solicitors, and to share all documents about the complaint submitted to us with the Law Society, as it is the representative body for solicitors.

## Case Studies

This section contains a selection of anonymised case studies based on actual complaints 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 as well as the outcomes. It is hoped that these case studies are useful for both consumers and legal practitioners.



### CASE STUDY 1

#### Misconduct complaint with public interest issue

##### Type of Complaint: Misconduct

The complainant was the daughter of a woman who had made a will with the solicitor. As the executor appointed to the will, the complainant asked the solicitor to hand over the will so she could instruct a different solicitor to handle the administration of the deceased's estate. The solicitor charged the complainant €246 as a storage fee for the will. The solicitor claimed that this was justified on the basis that the original charge of €80 for making the will was heavily discounted in the expectation that the same firm would also be instructed to deal with the administration of the estate. The solicitor said this had been explained to the complainant's late mother at the time the will was made. However the solicitor was unable to produce any evidence of that.

##### Outcome: Complaint Upheld

The solicitor refunded the storage fee to the complainant. However, the LSRA determined that there was a public interest issue in this complaint and it was referred to the Complaints Committee for further investigation. The Complaints Committee determined that under no circumstances could handing over the will to the complainant be made conditional on the payment of the storage charges. While a sanction was not imposed, the legal practitioner was given a warning.

##### Lessons for the Public

You are not obliged to instruct the law firm that drafted a will in order to deal with the administration of the deceased's estate.

##### Lessons for Practitioners

The legal fees charged for drafting a will are no different to any other legal costs, and they should be discussed and agreed with the client. All charges relating to the making of a will should be set out in writing and approved by the client.



## CASE STUDY 2

## LSRA mediation services helped parties resolve legal services complaint

### Type of Complaint: Inadequate Legal Services

The complainant instructed the solicitor in a complex case involving the rectification of property boundary issues. The complainant felt the level of service provided was inadequate as there was an excessive delay in providing the service and the solicitor had not responded to correspondence.

### Outcome: Complaint resolved through Informal Resolution

The LSRA invited both parties to try to resolve matters informally and they both agreed. An LSRA mediator contacted each party separately by phone explaining the process, listening to both parties' perspectives and supporting them to develop options for resolving the complaint informally. A written agreement was reached that set out a list of actions for the solicitor to complete. A communication plan was also put in place to satisfy the needs of both parties. The solicitor agreed not to charge for their work.

### Lessons for the Public

Informal Resolution offers a confidential, fast and convenient way of resolving your complaint. The LSRA provides this service free of charge.

### Lessons for Practitioners

Informal Resolution offers the opportunity to resolve a complaint in an efficient and non-adversarial manner. It enables both parties to agree a solution that works for them rather than having the dispute determined by the LSRA.

## CASE STUDY 3

## Solicitor directed to pay compensation for excessive delay in transferring funds to client

### Type of Complaint: Misconduct

The solicitor acted for the complainant in the sale of her property. The complainant said that she did not receive the proceeds of the sale of the property until approximately six months after the sale closed. She also complained that the legal practitioner failed to communicate with her.

### Outcome: Complaint Upheld

The LSRA invited both parties to try to resolve matters informally. However, neither party responded to this invitation. The complaint was referred to the Complaints Committee for further investigation. The Committee directed the solicitor to pay €500 to the complainant for any financial or other loss suffered.

### Lessons for the Public

If your solicitor is in receipt of funds from the sale of a property or an award of compensation on your behalf, you are entitled to have those funds released to you as soon as practicable. Money should not be held by your solicitor without good reason.

### Lessons for Practitioners

Funds held on behalf of a client should be released expeditiously and should not be held without good reason. It is important to respond promptly to requests from your clients for release of their money to them. Any reasons for holding funds should be clearly explained. Practitioners should also regularly check all credit balances, so that such issues are not overlooked.

## CASE STUDY 4

## Solicitor directed by the High Court to pay compensation to client and LSRA costs

### Type of Complaint: Inadequate Legal Services

The solicitor was acting for the complainant in a personal injury claim for the complainant's son (a minor) over a number of years. The complainant alleged that the solicitor provided a service of an inadequate standard because he failed to reply to emails and telephone calls regarding the progress of the claim. There was a long period without any communication from the solicitor, who failed to return phone calls and reply to emails.

### Outcome: Complaint Upheld

The LSRA invited both parties to try to resolve matters informally. The solicitor did not respond to the invitation, so the complaint was then sent for determination by the LSRA. The solicitor and the complainant were both asked to submit statements before a determination was made. The solicitor did not respond. The LSRA directed the solicitor to transfer documents to another solicitor nominated by the complainant, and pay the complainant compensation of €3,000. The solicitor did not respond. The LSRA sought a High Court Order to direct the solicitor to comply with its determination. The Order was obtained and included a direction to the solicitor to pay the costs of the LSRA in seeking the Order.

### Lessons for the Public

Clients are entitled to expect their instructions to be followed and to be communicated with appropriately as matters progress. If that is not the case, you should tell your solicitor that you intend to make a complaint to the LSRA unless the matter is dealt with.

### Lessons for Practitioners

You should maintain communications with your client and not ignore correspondence. If you ignore correspondence from the LSRA, and fail to comply with a determination, you may become liable for significant costs.

## CASE STUDY 5

## Review Committee upholds LSRA decision in services complaint

### Type of Complaint: Inadequate Legal Services

The solicitor was engaged by the complainant who was interested in buying a plot of land and building a property on it. It transpired that there were problems with the title which ultimately led to the complainant abandoning the purchase after approximately 16 months attempting to resolve the issues. The complainant alleged that the solicitor had not fully investigated the extent of the difficulties with the title and had not provided sufficient advice as to whether or not they could be resolved and the length of time it might take to do so. The complainant said that he was not updated sufficiently and that that he had suffered significant financial loss.

### Outcome: Complaint Upheld

The LSRA invited both parties to try to resolve matters informally. The invitation was not taken up by the solicitor so the complaint was then sent for determination by the LSRA. The LSRA directed the solicitor to pay the complainant compensation of €2,500. Both parties sought a review of the LSRA determination by the Review Committee, which agreed with the original determination made by the LSRA. The Review Committee increased the compensation award to the maximum amount of €3,000.

### Lessons for the Public

There are strict limits on the amounts of compensation which can be awarded by the LSRA or the Review Committee. Despite the Review Committee agreeing that the legal services were inadequate in this complaint, it could only increase the compensation to the maximum amount allowed in the Act for complaints of this kind, which is €3,000. If your financial losses are in excess of that, you should consider getting independent legal advice.

### Lessons for Practitioners

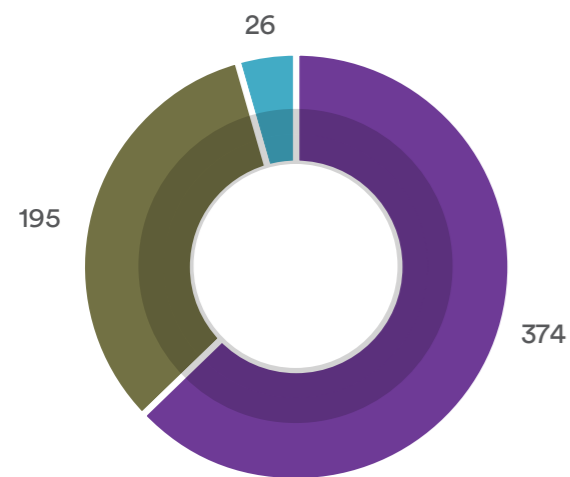
Legal Practitioners must appreciate that clients are investing substantial time and money in the purchase of a property, so it is vital that they are advised of potential problems as soon as they become apparent.

# Statistical Breakdown of Complaints

## Complaints Received

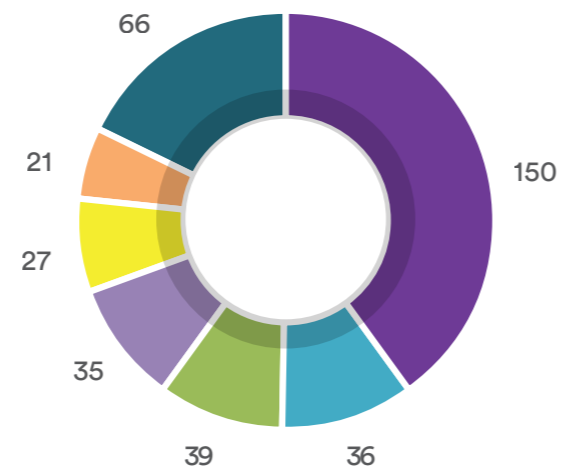
From 3 September 2022 to 3 March 2023

### All Complaints



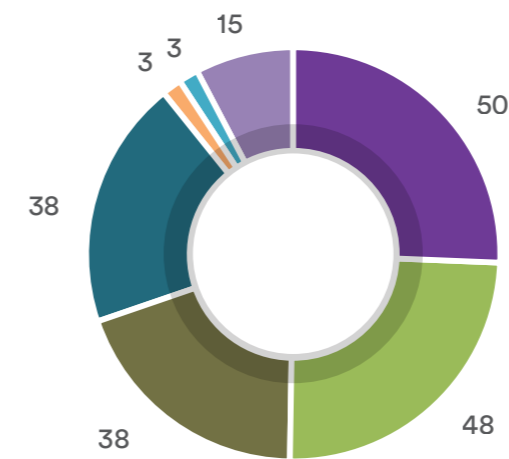
|                             |            |         |
|-----------------------------|------------|---------|
| ● Misconduct                | <b>374</b> | (62.9%) |
| ● Inadequate Legal Services | <b>195</b> | (32.8%) |
| ● Excessive Costs           | <b>26</b>  | (4.4%)  |
| <b>TOTAL</b>                | <b>595</b> |         |

### Misconduct



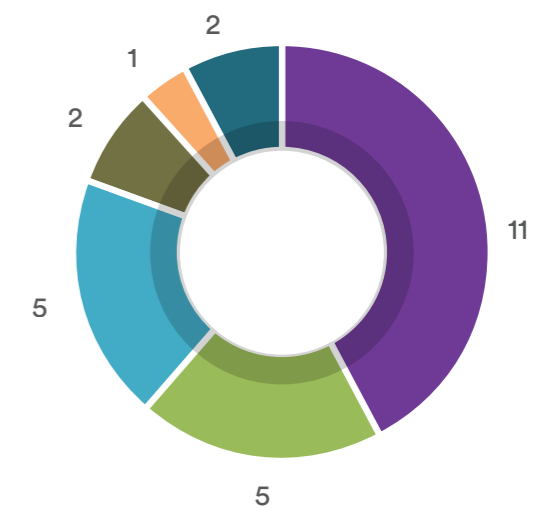
|                                      |            |         |
|--------------------------------------|------------|---------|
| ● Bringing profession into disrepute | <b>150</b> | (40.1%) |
| ● Undertaking                        | <b>39</b>  | (10.4%) |
| ● Failure to hand over               | <b>36</b>  | (9.6%)  |
| ● Failure to communicate             | <b>35</b>  | (9.4%)  |
| ● Failure to account                 | <b>27</b>  | (7.2%)  |
| ● Fraud or dishonesty                | <b>21</b>  | (5.6%)  |
| ● Other                              | <b>66</b>  | (17.6%) |
| <b>TOTAL</b>                         | <b>374</b> |         |

### Inadequate Legal Services



|                |            |         |
|----------------|------------|---------|
| ● Conveyancing | <b>50</b>  | (25.6%) |
| ● Litigation   | <b>48</b>  | (24.6%) |
| ● Probate      | <b>38</b>  | (19.5%) |
| ● Family       | <b>38</b>  | (19.5%) |
| ● Employment   | <b>3</b>   | (1.5%)  |
| ● Crime        | <b>3</b>   | (1.5%)  |
| ● Other        | <b>15</b>  | (7.7%)  |
| <b>TOTAL</b>   | <b>195</b> |         |

### Excessive Costs



|                |           |         |
|----------------|-----------|---------|
| ● Litigation   | <b>11</b> | (42.3%) |
| ● Family       | <b>5</b>  | (19.2%) |
| ● Conveyancing | <b>5</b>  | (19.2%) |
| ● Probate      | <b>2</b>  | (7.7%)  |
| ● Crime        | <b>1</b>  | (3.8%)  |
| ● Other        | <b>2</b>  | (7.7%)  |
| <b>TOTAL</b>   | <b>26</b> |         |

# Complaints Completion Statistics

Complaints Closed from 3 September 2022 to 3 March 2023

**TABLE 1: Summary of Complaints Completions**

| Complaints Closed Pre-Admissibility                     |             |
|---|-------------|
| Resolved with assistance of LSRA                        | 83          |
| Withdrawn   | 29          |
| Other   | 51          |
| <b>Total complaints closed pre-admissibility</b>        | <b>163</b>  |
| Complaints Closed At or Post-Admissibility              |             |
| Inadmissible  | 291         |
| Determined by LSRA                                      | 35          |
| Resolved in Informal Resolution                         | 13          |
| Closed by Complaints Committee                          | 95          |
| <b>Total complaints closed at or post-admissibility</b> | <b>434</b>  |
| <b>TOTAL COMPLAINTS CLOSED</b>                          | <b>597*</b> |

\* The total number of complaints closed was 596 but the total number of outcomes was 597. The outcome of one misconduct complaint is counted twice as the complaint was dealt with under two separate categories.

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

| No. | Date of LSRA Determination | Upheld/Direction to Legal Practitioner  | Section of the Act      |
|-----|----------------------------|---|-------------------------|
| 1   | 02/11/2021                 | Pay to the client €3,000 as compensation and refund €3,750                                | s60(6)(d) and s61(6)(a) |
| 2   | 11/01/2022                 | Transfer any documents to another legal practitioner and not seek any costs               | s60(6)(c)               |
| 3   | 18/02/2022                 | Not Upheld  |                         |
| 4   | 08/03/2022                 | Not Upheld  |                         |
| 5   | 21/03/2022                 | Reduce professional fees by €1,382.50 and issue revised fee notes                         | s60(6)(b)               |
| 6   | 30/03/2022                 | Pay to the client €2,000 as compensation  | s60(6)(d)               |
| 7   | 29/04/2022                 | Not Upheld  |                         |
| 8   | 01/06/2022                 | Pay to the client €2,500 as compensation  | s60(6)(d)               |
| 9   | 23/06/2022                 | Refund €2,750 in respect of the practitioner's costs in connection with the bill of costs | s61(6)(a)               |
| 10  | 29/06/2022                 | Not Upheld  |                         |
| 11  | 28/07/2022                 | Not Upheld  |                         |
| 12  | 23/08/2022                 | Not Upheld  |                         |
| 13  | 23/09/2022                 | Not Upheld  |                         |
| 14  | 30/09/2022                 | Pay to the client €3,000 as compensation and reduce professional fee by €1,000            | s60(6)(d) and s61(6)(a) |



**TABLE 2: (Continued)**

| No. | Date of LSRA Determination | Upheld/Direction to Legal Practitioner  | Section of the Act |
|-----|----------------------------|---|--------------------|
| 15  | 20/10/2022                 | Waive professional fee and transfer any documents to another legal practitioner and pay to the client €1,500 as compensation                      | s60(6)(c) and (d)  |
| 16  | 26/10/2022                 | Not Upheld  |                    |
| 17  | 26/10/2022                 | Pay to the client €400 plus VAT as compensation   | s60(6)(d)          |
| 18  | 02/11/2022                 | Refund to the client  | s60(6)(b)          |
| 19  | 17/11/2022                 | Pay to the client €3,000 as compensation  | s60(6)(d)          |
| 20  | 21/11/2022                 | Payment of €3,000 in contribution to fees incurred by the Executors having to engage a new solicitor and pay to the client €3,000 as compensation | s60(6)(b) and (d)  |
| 21  | 02/03/2022                 | Refund to the client the sum of €810 and pay to the client €3,000 as compensation   | s60(6)(b) and (d)  |
| 22  | 21/11/2022                 | Pay to the client €3,000 as compensation  | s60(6)(d)          |
| 23  | 23/11/2022                 | Refund to the client €4,083.75 in respect of the bill of costs  | s61(6)(a)          |
| 24  | 24/11/2022                 | Return to the client the file and/or any documents and pay to the client €200 as compensation   | s60(6)(b) and (d)  |

**TABLE 2: (Continued)**

| No. | Date of LSRA Determination | Upheld/Direction to Legal Practitioner   | Section of the Act |
|-----|----------------------------|--|--------------------|
| 25  | 29/11/2022                 | Not Upheld   |                    |
| 26  | 30/11/2022                 | Waive the instruction fee of €14,000   | s61(6)(b)          |
| 27  | 01/12/2022                 | Secure the rectification of the title at own expense   | s60(6)(a)          |
| 28  | 08/12/2022                 | Not Upheld   |                    |
| 29  | 13/12/2022                 | Not Upheld   |                    |
| 30  | 13/12/2022                 | Secure the rectification at his or her own expense of any error, omission or other deficiency identified, and at no cost to client progress registration, and pay to the client €3,000 as compensation | s60(6)(a) and (d)  |
| 31  | 16/01/2023                 | Pay to the client €400 as compensation   | s60(6)(d)          |
| 32  | 19/01/2023                 | Pay to the client €6,759.42 in respect of costs incurred to pay another solicitor to complete the work and pay to the client €3,000 in compensation  | s60(6)(a) and (d)  |
| 33  | 26/01/2023                 | Transfer any documents to another legal practitioner, waiving all costs and outlay that may be due or owing  | s60(6)(c)          |

\* This table comprises 12 determinations made in the previous reporting period of 5 March to 2 September 2022 and 21 of the 59 determinations made in the current reporting period.

**TABLE 3: Review Committee Outcomes**

| No. | Date of LSRA Determination | LSRA Direction  | Date of Review Committee Meeting | Outcome                                 |
|-----|----------------------------|---|----------------------------------|---|
| 1   | 17/08/2021                 | Not Upheld  | 27/10/2022                       | Confirmed LSRA determination s62(5)(a)  |
| 2   | 02/11/2021                 | Pay to the client €3,000 as compensation and to refund €3,750               | 27/10/2022                       | Confirmed LSRA determination s62(5)(a)  |
| 3   | 11/01/2022                 | Transfer any documents to another legal practitioner and not seek any costs | 27/10/2022                       | Confirmed LSRA determination s62(5)(a)  |
| 4   | 18/02/2022                 | Not Upheld  | 27/10/2022                       | s60(6)(d) to pay €1,200 as compensation |
| 5   | 08/03/2022                 | Not Upheld  | 27/10/2022                       | Confirmed LSRA determination s62(5)(a)  |
| 6   | 23/03/2022                 | Reduce professional fees by €1,382.50 and issue revised fee notes           | 27/10/2022                       | Confirmed LSRA determination s62(5)(a)  |
| 7   | 30/03/2022                 | Pay to the client €2,000 as compensation                                    | 27/10/2022                       | Confirmed LSRA determination s62(5)(a)  |

**TABLE 3: (Continued)**

| No. | Date of LSRA Determination | LSRA Direction                           | Date of Review Committee Meeting | Outcome  |
|-----|----------------------------|--|----------------------------------|--|
| 8   | 29/04/2022                 | Not Upheld                               | 27/10/2022                       | Confirmed LSRA determination s62(5)(a)   |
| 9   | 01/06/2022                 | Pay to the client €2,500 as compensation | 27/10/2022                       | Confirmed LSRA determination s62(5)(a) and additional €500 compensation to be paid to client   |
| 10  | 23/06/2022                 | Refund to the client the sum of €2,750   | 14/12/2022                       | Remitting the complaint to the Authority with a direction to the Authority not to uphold the complaint under section 61 of the Act and not to make any directions under section 61(6) of the Act |
| 11  | 29/06/2022                 | Not Upheld                               | 27/10/2022                       | Confirmed LSRA determination s62(5)(a)   |
| 12  | 23/09/2022                 | Not Upheld                               | 14/12/2022                       | Confirmed LSRA determination s62(5)(a)   |

**TABLE 4: Complaints Committee Outcomes**

| Complaints Committee Outcomes |           |
|-------------------------------|-----------|
| Referred to LPDT              | 13        |
| Not Upheld                    | 40        |
| Upheld/Direction              | 6         |
| Resolved                      | 17        |
| Withdrawn                     | 14        |
| Deferred/Other Outcome        | 5         |
| <b>TOTAL</b>                  | <b>95</b> |

**TABLE 5: Complaints Committee Directions and Referrals**

| No. | Date of Committee Meeting | Nature of Complaint  | Determination   |
|-----|---------------------------|--|---|
| 1   | 07/07/2022                | Failure to provide written information about legal costs                                 | Upheld - direction s71(5)(c)<br>Reduce fees by €250   |
| 2   | 14/07/2022                | Inadequate services in High Court proceedings  | Upheld - direction s71(5)(d)<br>Make application to High Court for a direction that the costs be adjudicated and to bear the reasonable costs of the client |
| 3   | 01/09/2022                | Failure to hand over files   | Upheld - directions s71(5)(i)<br>Pay costs of €1,500 to the LSRA and s71(5)(g) Pay €2,500 as compensation to client   |
| 4   | 08/09/2022                | Incorrect recording of money in client's account and subsequent use                      | Referred to LPDT s71(7)   |
| 5   | 08/09/2022                | Failure to account for monies and not progressing instructions                           | Referred to LPDT s71(7)   |
| 6   | 14/09/2022                | Failure to account for monies  | Referred to LPDT s71(7)   |
| 7   | 13/10/2022                | Failure to hand over file and failure to respond   | Referred to LPDT s71(7)   |
| 8   | 20/10/2022                | Failure to pay third parties money deducted from client's award                          | Upheld - direction s71(5)(g)<br>Pay €5,000 as compensation to the client  |
| 9   | 01/11/2022                | Deduction of monies from the client's award to pay service providers and had not done so | Referred to LPDT s71(7)   |

**TABLE 5: (Continued)**

| No. | Date of Committee Meeting | Nature of Complaint  | Determination  |
|-----|---------------------------|--|--|
| 10  | 23/11/2022                | Lodging a settlement cheque to the firm's account without the client's authority to do so                                | Upheld - direction s71(5)(b)<br>To participate in a module of a professional competence scheme |
| 11  | 01/12/2022                | Failure to comply with money laundering regulations, failure to communicate or hand over documents                       | Referred to LPDT s71(7)  |
| 12  | 01/12/2022                | Failure to comply with undertaking   | Referred to LPDT s71(7)  |
| 13  | 07/12/2022                | Failure to register a lease and failure to communicate   | Referred to LPDT s71(7)  |
| 14  | 07/12/2022                | Failure to comply with undertaking   | Referred to LPDT s71(7)  |
| 15  | 07/12/2022                | Failure to reply to correspondence   | Referred to LPDT s71(7)  |
| 16  | 07/12/2022                | Failure to take appropriate instructions, failure to make proper provision in a will and providing incorrect information | Referred to LPDT s71 (7)   |
| 17  | 14/12/2022                | Seeking payment in cash  | Upheld - direction s71(5)(c)<br>To waive all fees  |
| 18  | 25/01/2023                | Lack of communication and failure to hand over files, delay and failure to progress work on files                        | Referred to LPDT s71(7)  |
| 19  | 25/01/2023                | Obtaining money from the client through dishonesty or fraud  | Referred to LPDT s71(7)  |





An tÚdarás Rialála  
Seirbhísí Dlí  
Legal Services  
Regulatory Authority

**Legal Services Regulatory Authority**  
Unit 1-3, Manor Street Business Park  
Stoneybatter, Dublin 7

**Postcode:** D07 K290

**Email:** [lsra-inbox@lsra.ie](mailto:lsra-inbox@lsra.ie)

**Website:** [www.lsra.ie](http://www.lsra.ie)

**Twitter:** @LSRAIreland