



Making a complaint about YOUR Solicitor

THE LAW SOCIETY
OF NORTHERN IRELAND



MAKING A COMPLAINT ABOUT YOUR SOLICITOR

The Law Society of Northern Ireland is the governing body of solicitors in Northern Ireland. It is responsible for the regulation and education of solicitors and is also responsible for ensuring they observe proper standards of conduct and service when they are dealing with their clients and that they act professionally with other solicitors.

Most solicitors give clients a professional and efficient service. Sometimes, however, clients become dissatisfied with how the solicitors have dealt with their case and want to complain.

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THE FIRST STEP

Solicitors now have to have their own in-house complaints procedure. It is a written document and provides you with an opportunity to make the complaint to them in writing. They must acknowledge receipt and give a substantive reply, usually within 28 days of receipt of the complaint. You may be asked to call in to discuss your concerns or the solicitor may want to speak to you by telephone. In any event, you should receive a final written report. Your complaint to the solicitors should be made within six months of completion of your business or within six months of you discovering a cause for concern, whichever is later.

Once the solicitors have investigated your complaint and you are still unhappy, you have another six months to refer the matter to the Society. You should also contact the Society if you do not get a response and more than 28 days has expired since you made the complaint.

The Society's complaints procedures are overseen by the Client Complaints Committee which has solicitors and lay people as members. These procedures are explained below.

AREAS IN WHICH WE MAY BE ABLE TO HELP

Examples of the types of issues which the Society may consider as inadequate service are:

- Unreasonable delays in dealing with your case.
- Failing to reply to telephone calls, emails or letters.
- Giving you inaccurate or incomplete information.

- Failing to hand over your papers if you have asked for them and do not owe any money to the solicitor.

Examples of the types of issues which the Society may consider to be professional misconduct:

- Suspected dishonesty.
- Mishandling of client's money.
- Acting in the same case for you and for others where your interests are in conflict with theirs.

HOW TO LODGE A COMPLAINT WITH THE LAW SOCIETY

A complaints form and information notes are available either from the Law Society website - www.lawsoc-ni.org or by contacting the Society who will in turn post them to you. The Society's contact details are included at the end of this leaflet.

All complaints should be submitted to the Society using the complaint form **which you must sign**. You may send in documents which you think will help us. In any event you must always include your written complaint to the solicitor and any response received. Ensure all aspects of the complaint are included on the form as new issues cannot be raised at a later date. It is important that all evidence is properly documented where possible, as this makes it easier to deal with disputed information.

To maintain confidentiality and to comply with statutory obligations, we have to ensure that any complaint to us about your solicitor's conduct or service is in writing, signed by you and contains a full postal address. We cannot deal with initial complaints by email, although once your

complaint has been commenced, we are happy to accept emails from you. We, however, normally respond by post. We also cannot accept telephone information as evidence as we need to be certain that our records properly reflect your position. Therefore any information given over the telephone will have to be confirmed by you in writing. We will also confirm our position in writing, where appropriate. We always send a formal letter to you and the solicitors by post at the conclusion of the investigation.

HOW WE INVESTIGATE YOUR COMPLAINT

When we receive your completed form we analyse it to make sure your complaint is one which we can consider. Full details of the procedures are attached to the complaint form but in summary, if the Society considers that your complaint can properly be dealt with under its complaints procedures, it will acknowledge receipt of the complaint and send a copy of the complaint form and supporting documents to the solicitor.

On receiving the solicitor's reply, it will be copied to you for comment. Occasionally, further information may then be required from the solicitor or from you.

Once we think we have all we need, the case may be concluded. We will provide an opinion on the relevant aspects of the complaint and, if appropriate, the solicitor may be directed to take certain action to assist you within the terms of the Solicitors' (NI) Order 1976 as amended.

In the unusual event of your solicitor failing to co-operate with the Society's investigation, disciplinary action may be taken and you will be advised to immediately seek alternative legal advice. Should that situation arise, more detailed information will be provided.

Where you are complaining about a current case with your solicitor, we try at every stage to resolve misunderstandings, maintain the relationship and restore lines of communication between you and your solicitor.

Where your complaint is about a case which is concluded, we will express an opinion on the solicitor's conduct and/or service in relation to the issues raised in your complaint form and if appropriate may be able to provide a remedy.

CIRCUMSTANCES WHEN THE LAW SOCIETY IS UNABLE TO HELP

- We are unable to give you legal advice or a second opinion on the legal advice you have already received. If you are unhappy with advice received or disagree with it, you will have to obtain a second opinion from another solicitor.
- We cannot adjudicate on complicated issues of fact or law, or comment on the outcome of your court case.
- We do not have the power to order your solicitor to pay compensation to you for **professional negligence**. *(See **NOTE**).
- We are unable to compel a solicitor to take on your case if s/he does not want to do so.
- We cannot tell your solicitor how to handle your case or maintain a monitoring role on your case.
- We do not have the power to investigate a complaint about other branches of the legal profession such as District Judges, Lay Magistrates, Barristers and County Court or High Court Judges.

- We cannot investigate a complaint if the work done by the solicitor is under a practising certificate issued in another country eg in England, Wales, Scotland or the Republic of Ireland. (You should contact the Law Society in the relevant jurisdiction).
- We cannot investigate complaints about solicitors who are not doing legal work.
- We cannot investigate and provide redress where you are complaining about someone else's solicitor. (You should discuss any concerns with your own solicitors).

NOTE:

* *Negligence is generally a mistake made by your solicitor which causes you as the client to suffer financial loss. If you believe your solicitor has acted negligently and you wish to pursue a claim, you can do so by instructing another solicitor to pursue the matter through the Courts on your behalf.*

Where your complaint involves both inadequate service and allegations of negligence, then the negligence claim should be concluded before the complaint is pursued. Often the facts which give rise to negligence are the same as those which give rise to the complaint to the Society and if the negligence claim is resolved successfully in your favour, it may not always be appropriate or necessary to pursue the complaint of inadequate service.

ADMINISTRATION OF ESTATES

We can investigate a complaint from you if you are the **personal representative**, including if your status is as co-executor with one of the solicitors in the firm handling the estate. As the personal representative,

you are the solicitor's client and the only person who can complain about the solicitor's service or conduct. You have the legal responsibility of ensuring that the deceased's estate is properly wound up. You will be either the nominated executor in the deceased's will, or if the deceased did not make a will, you are the next of kin.

However, if you are a **beneficiary** and you have concerns about how an estate is progressing you should contact the personal representative and if they share your views you should ask them to complain to the Society. If the personal representative does not agree that there is a problem, then you will have to obtain advice from your own solicitor. **The one exception to this rule is where the solicitor is acting solely as the executor, without an independent executor.** In that case we will ask the solicitor to provide information to enable you to decide whether you need to take advice from your own solicitor.

CONCLUDING AN INVESTIGATION

When the Society concludes an investigation it may:

1. Find that the solicitor has been guilty of inadequate service or professional misconduct.
2. If the solicitor has given inadequate professional service, the Society can also exercise its statutory powers to impose certain sanctions which include:
 - (i) Determining the costs to which the solicitor is entitled be limited to a specific amount, having regard to standard of the service provided.

- (ii) Directing the solicitor to take such steps for the completion of the matter within such reasonable time as the Society may specify.
 - (iii) Directing the solicitor to secure rectification of any error or omission or other deficiency.
 - (iv) Directing the solicitor to take any other action which the Society thinks is necessary in your interests at the solicitor's expense.
3. In more serious cases of professional misconduct, the Society can prosecute the solicitor before the Solicitors' Disciplinary Tribunal.
 4. It may conclude that the solicitor's actions have been in order and your complaint is not upheld.

If your complaint is not upheld the Society will inform you of the reasons for the decision.

THE SOLICITORS' DISCIPLINARY TRIBUNAL

This is a disciplinary body independent of the Law Society and includes lay people. It was set up by Parliament as part of the High Court and has the power to:

- Strike a solicitor off the roll of solicitors, in effect banning him/her from practising as a solicitor.
- Suspend the solicitor from his or her practice.
- Impose a fine or admonishment or order restitution.

The Tribunal cannot order your solicitor to pay compensation to you.

THE LAY OBSERVER

The Society's procedures are open to public scrutiny through the offices of the Lay Observer. The Lay Observer is an official appointed by the Government in consultation with the Lord Chief Justice to oversee the way in which the Society investigates complaints about solicitors. If you feel the Law Society has not handled your case properly you can write to:

The Lay Observer, The Legal Services Oversight Commissioner, Room 25a
Dundonald House, Upper Newtownards Road, Belfast, BT4 3SB,
marian.cree@legalcommissioner-ni.org.uk

IMMIGRATION CASES

The Office of the Immigration Services Commissioner oversees the Law Society's handling of immigration complaints. The Society reports on the number of complaints received and the outcome. You may contact the OISC at:

Office of the Immigration Services Commissioner
Complaints Team
5th Floor
21 Bloomsbury Street
London
WC1B 3HF
complaints@oisc.gov.uk
0207 211 1500

HANDLING YOUR DOCUMENTS

In order to comply with its responsibilities to external regulators such as the Lay Observer and the Office of the Immigration Services Commissioner, the Society has to allow access to its files to ensure that we are doing our job properly. No unlawful or improper use will however, be made of that information.

UNHAPPY ABOUT YOUR SOLICITOR'S COSTS

If you have a query about your solicitor's costs and no court proceedings were issued by you or against you, then the Law Society administers a scheme which may be able to assist in assessing the reasonableness of the solicitor's charges to you, provided the bill is not more than six months old and has not been paid. Further information is contained in the leaflet *Unhappy About Your Bill*.

COMPLAINTS FORM

You can obtain a complaints form by:

Writing to:

The Law Society of Northern Ireland
Law Society House
96 Victoria Street
Belfast BT1 3GN

Telephoning:

028 9023 1614

Download the form from:

www.lawsoc-ni.org

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