

MAKING A COMPLAINT ABOUT **YOUR** SOLICITOR

SCC Solicitors Complaints Committee Northern Ireland

Making a complaint about **YOUR** solicitor

The Solicitors Complaints Committee is an independent body responsible for considering and determining upon complaints raised against solicitors for services provided to the public. It is made up of both lay people (non-lawyers) and solicitors and has a lay majority and a lay Chair.

The Solicitor Complaints Office is a team within the Law Society of Northern Ireland that act as secretariat to the Solicitors Complaints Committee by dealing with the administrative aspects of the investigation such as collating complaint documentation and issuing correspondence on the direction of the Solicitors Complaints Committee. All decisions will be made by the Solicitors Complaints Committee and will be communicated by the Solicitor Complaints Office.

The Law Society of Northern Ireland is the regulatory body for solicitors in Northern Ireland and remains responsible for complaints about the conduct by which a solicitor has acted. Any complaints concerning the conduct of a solicitor, should be directed to the Law Society.

Most solicitors give clients a professional and efficient service. Sometimes, however, clients become dissatisfied with how solicitors have dealt with their case and want to complain. Complaints about the level of professional service received can be considered by the Solicitors Complaints Committee provided the complaints process has been followed.

Step one: in-house complaint - raise your concerns with your solicitor directly

Solicitors must have their own written in-house complaints procedure which sets out the way in which you should raise your complaint and explains the steps they will take to try to resolve the issue.

The in-house complaint process provides you with an opportunity to make the complaint to your solicitor in writing to ensure that they fully understand your concerns. You should retain a copy of your in-house complaint to prove that you have raised your concerns with the solicitor directly. The solicitor must acknowledge receipt of your written complaint and provide you with a full reply, usually within 28 days of receipt of the complaint.

You may be asked to meet with the solicitor to discuss your concerns or the solicitor may want to speak to you by telephone. It is up to you whether you wish to resolve the matter in this way, however in any event, you should receive a final written reply to your complaint.

Your complaint to the solicitor must be made within 6 months of completion of your business or within 6 months of you discovering the issue you wish to complain about, whichever is later.

Once the solicitor has investigated your complaint and provided you with their response, you will be informed that the in-house complaint process has come to an end. If you consider that you have been unable to resolve your complaint at the conclusion of the in-house stage, you may lodge a complaint to the Solicitors Complaints Committee.

Step two: submit your complaint to the Solicitors Complaints Committee

When you are complaining about a current case with your solicitor, attempts should be made 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, the Committee will consider the service provided by the solicitor in relation to the issues raised in your complaint form and if appropriate may be able to provide a remedy.

Any complaint to the Solicitors Complaints Committee must be made in writing using a Form 1 Complaint Form within 3 months of the conclusion of the in-house complaint process.

If the solicitor has failed to respond to your complaint within the required 28 days at the in-house stage, you may lodge a complaint to the Solicitors Complaints Committee within 3 months of the expiration of the 28 day in-house response timeframe.

Complaints forms are available either from the Solicitors Complaints Committee website, or by contacting the Solicitor Complaints Office who will in turn post or email them to you. The Solicitor Complaints Office contact details are included at the end of this leaflet.

All complaints should be submitted to the Solicitors Complaints Committee through the Solicitor Complaints Office using the complaint form, which you must sign. You may send in any documents which you think will help support or explain your complaint. You must always include a copy of your written complaint to the solicitor and any response received when submitting your complaint to the Solicitors Complaints Committee.

You should ensure all aspects of the complaint are included in the complaint form as new issues cannot be raised later. 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, the Committee must ensure that any complaint made about your solicitor's service is in writing, signed by you, and contains a full postal address and contact details.

Correspondence will normally be issued to you by post, although once your complaint has been received, correspondence may be issued via email if this is your preference. Any communication preferences should be indicated in your complaint form from the outset.

Please note that information provided via telephone cannot be accepted as evidence as the Committee require certainty that the file records properly reflect your position. Therefore, any information given over the telephone will have to be confirmed by you in writing. A formal letter will be issued to you and the solicitors by post at the conclusion of the investigation to confirm the Committee's determination.

EXCEPTIONS AND EXTENSIONS

There may be limited circumstances where you cannot raise your complaint directly with the solicitor, or you cannot raise your complaint within the prescribed timeframe.

If you consider that you might be eligible for an exemption or extension, you should request this at the earliest opportunity within your complaint form when lodging your complaint with the Solicitors Complaints Committee.

WHAT THE SOLICITORS COMPLAINTS COMMITTEE CAN CONSIDER:

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

- Inaction or undue delays in dealing with your case,
- Failing to reply to correspondence or respond to reasonable enquiries,
- Giving you inaccurate or incomplete information,
- Failing to provide you with information on how they will bill for your case,
- Failing to provide you with an accurate bill of costs,
- Failing to hand over your papers if you have asked for them and do not owe any money to the solicitor,
- Failing to consider or respond to your complaint.

WHAT THE LAW SOCIETY CAN CONSIDER:

Examples of the types of issues which the Solicitors Complaints Committee may not have the remit to consider as they relate to matters of professional misconduct and should instead be raised with the Law Society include:

- Breaches of Law Society Regulations,
- Breaches of undertakings,
- Suspected dishonesty,
- Allegations of mishandling of client's money,
- Failure to discharge expert or other third party costs.

Step three: investigation of your complaint:

When your completed complaint form has been received, it will be analysed to ensure that you have:

- Completed the in-house complaint stage or made a valid exemption request,
- Lodged your complaint within 3 months or made a valid extension request,
- Provided a fully completed complaint form,
- Provided a copy of the in-house complaint and response (where an exemption request is not sought) as well as any other documents or evidence you wish to be considered.

If you have not complied with the above, the Solicitors Complaints Committee may dismiss your complaint without further investigation.

If you have complied with the above and no information is outstanding, you will receive an acknowledgement of your complaint and a copy of the complaint form and supporting documents will be sent to the solicitor by way of notification that a complaint has been lodged against them.

The Solicitors Complaints Committee will then undertake an initial review of your complaint to determine whether it is something that the Committee can consider.

If your complaint cannot be considered by the Solicitors Complaints Committee, they will dismiss your complaint and you will be informed of the reasons why and may be signposted to alternative services that would have the remit to assist you. i.e. to the Law Society for allegations of misconduct or the PSNI for allegations of criminality etc.

If the Solicitors Complaints Committee determine that they can consider your complaint, your complaint will be registered for investigation and the solicitor will be asked to respond in full to your complaint. On receiving the solicitor's reply, a copy will be issued to you for your reference. Occasionally, further information or comment may then be required from the solicitor or from you. If this is the case, you will receive correspondence setting out what further comment or information is required.

Once all necessary information has been collated, the case may be concluded by a hearing. A hearing will usually take place without you or the solicitor needing to attend as written information will already have been gathered from both of you. If your attendance is required, you will be informed of the process for this in advance.

Once the Solicitors Complaints Committee have determined your complaint at hearing, you and the solicitor will receive a written explanation of the Committee's determination. A copy of the determination will also be issued to the Law Society and the Legal Services Oversight Commissioner as required by The Legal Complaints and Regulation Act (Northern Ireland) 2016.

Step four: outcome of your complaint:

Where your complaint has not been upheld, you will be informed of the reasons why and if the Committee considered that your complaint was frivolous (i.e. without merit) or vexatious (i.e. made deliberately with ill intentions) they may direct you to pay costs towards the time they spent considering your complaint.

Where your complaint has been upheld, and the Solicitors Complaints Committee considers it appropriate, the solicitor may be directed to take certain action to

assist you within the remit of the Legal Complaints and Regulation Act (Northern Ireland) 2016. This may include one or more of the following:

- Direct the solicitor to send their full file to us to assist in our investigation,
- Direct a solicitor to take steps to complete or rectify a matter,
- Take such further action in the interests of the client as the SCC may direct at the solicitor's expense,
- Limit the costs to which the solicitor is entitled by directing a reduction, refund or waiving of a bill,
- Award compensation to a complainant where a complaint is upheld,
- Direct a solicitor to issue an apology,
- Award costs against the solicitor for the time spent considering the complaint,
- Refer the solicitor to the Law Society of Northern Ireland if there are concerns about their conduct.

In the unusual event of your solicitor failing to co-operate with the Solicitors Complaints Committee's investigation, they may request that disciplinary action be taken by the Law Society as this could be a regulatory conduct concern. If this occurs, you will be informed of the referral to the Law Society and may be advised to immediately seek alternative legal advice.

CIRCUMSTANCES WHEN THE SOLICITORS COMPLAINTS COMMITTEE IS UNABLE TO HELP

- Neither the Solicitors Complaints Committee, the Solicitor Complaints Office, nor the Law Society are able to give you legal advice or a second opinion on the legal advice you have already received. If you are unhappy with the advice received or disagree with it, you will have to obtain a second opinion from another solicitor.
- The Solicitors Complaints Committee cannot judge complicated issues of fact or law, or comment on the outcome of your court case as these are matters for a Court to determine.

- Neither the Solicitors Complaints Committee, the Solicitor Complaints Office, nor the Law Society are able to compel a solicitor to take on your case if s/he does not want to do so.
- Neither the Solicitors Complaints Committee, the Solicitor Complaints Office, nor the Law Society can tell your solicitor how to handle your case or maintain a monitoring role on your case as this would be tantamount to legal advice.
- The Solicitors Complaints Committee 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.
- The Solicitors Complaints Committee do not have the power to investigate a complaint about other professionals such as financial or medical experts.
- The Solicitors Complaints Committee do not have the power to investigate a complaint if the work done by the solicitor is under a practicing certificate issued in another country e.g. In England, Wales, Scotland or the Republic of Ireland. Complaints should be raised with the appropriate body in the relevant jurisdiction.
- The Solicitors Complaints Committee cannot investigate complaints about solicitors who are not doing legal work.
- The Solicitors Complaints Committee cannot investigate and provide redress where you are complaining about someone else's solicitor (you should discuss any concerns you have about someone else's solicitor with your own solicitor).
- The Solicitors Complaints Committee cannot consider anonymised complaints. If you are concerned about a solicitor and do not wish to disclose your own information, you may wish to contact the Law Society of Northern Ireland in accordance with their whistleblowing policy.

NOTE

- Negligence is generally a mistake made by your solicitor which causes you as the client to suffer financial loss. If you believe that 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.
- If the complaint involves elements of professional negligence, correspondence will be issued explaining the limitations of the investigation and outcomes available to the Committee.
- You may also be advised to consider seeking independent legal advice on the legal implications of the allegations of negligence as this is not something the Committee can advise upon or determine.

ADMINISTRATION OF ESTATES

The Solicitors Complaints Committee can investigate a complaint from you if you are the personal representative, or a beneficiary entitled under an Estate the solicitor is instructed to administer.

As with all other service complaints, attempts should be made to resolve any complaint with the solicitor directly in the first instance.

If you are a beneficiary and the personal representative is not the solicitor, you may be best placed raising your concerns with the personal representative. The remit of the Solicitors Complaints Committee is restricted to considering the service provided by a solicitor and will not be able to comment, provide advice or determine upon any legal matters relating to the estate.

THE LEGAL SERVICES OVERSIGHT COMMISSIONER

The procedures of the Solicitors Complaints Committee are open to public scrutiny through the offices of the Legal Services Oversight Commissioner (LSOC). The LSOC is an official appointed by the Government in consultation with the Lord/Lady Chief Justice to oversee the way in which complaints about solicitors and barristers are investigated.

HANDLING YOUR DOCUMENTS

To comply with statutory and regulatory responsibilities both the Solicitors Complaints Committee and Solicitor Complaints Office may be required to share information about, or provide a copy of a complaint, including personal data, with relevant professional organisations such as the Law Society of Northern Ireland, the Legal Services Oversight Commissioner, the Legal Services Agency and others. No unlawful or improper use will be made of that information.

COMPLAINTS FORM

You can obtain a complaints form by downloading it from our website:
www.scc-ni.org

Or by writing to:
The Solicitor Complaints Office
Law Society House
96 Victoria Street
Belfast
BT1 3GN

Or by requesting a copy via email to:
enquiries@scc-ni.org



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