



STATUTORY INSTRUMENTS.

S.I. No. 488 of 2019



SOLICITORS ACTS 1954 TO 2015 (COMPLAINTS AND CLIENT
RELATIONS COMMITTEE, SECTION 8 AND 9) REGULATIONS 2019

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THE LAW SOCIETY OF IRELAND, in exercise of the powers conferred on them by Section 5 of the Solicitors Act 1954 (as amended), and pursuant to Sections 8(8) and 9(7) of the Solicitors (Amendment) Act 1994 (as amended), and with the concurrence of the President of the High Court, HEREBY MAKES the following REGULATIONS regulating –

- (a) Procedure in relation to complaints received by the Society under Section 8 of the Solicitors (Amendment) Act 1994;
- (b) Procedure in relation to complaints received by the Society under Section 9 of the Solicitors (Amendment) Act 1994.

Part 1 – Preliminary

- 1. (a) These Regulations may be cited as Solicitors Acts 1954 to 2015 (Complaints and Client Relations Committee, Section 8 and 9) Regulations 2019.
- (b) These Regulations shall apply to any complaint received 10 days after concurrence by the President of the High Court per sections 8(8) and 9(7) of the Solicitors (Amendment) Act 1994.
- 2. (a) In these Regulations-

“Act of 1994” means the Solicitors (Amendment) Act 1994 (No. 27 of 1994), as amended from time to time;

“Acts” means the Solicitors Acts 1954 to 2015;

“client” includes the personal representative of a client and any person on whose behalf the person who gave instructions was acting in relation to any matter in which a solicitor or his/her firm had been instructed; and includes a beneficiary to an estate under a will, intestacy or trust;

“complaint” means a complaint received by the Society under Section 8 or Section 9 or both of the Act of 1994 as applicable;

“complainant” means client of a solicitor or person on behalf of such client making a complaint under Section 8 or Section 9 or both of the Act of 1994 as applicable;

“Council” means the Council of the Society;

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 4th October, 2019.*

“Committee” means the Complaints and Client Relations Committee;

“Complaints and Client Relations Committee” means the Committee of the Council of the Law Society to which, inter alia, responsibility for the investigation and consideration of complaints against solicitors alleging excessive fees and inadequate professional services has been delegated by the Council;

“investigating officer” means any executive officer in the Complaints Section of the Society;

“Section 8” means Section 8 of the Act of 1994;

“Section 9” means Section 9 of the Act of 1994;

“Society” means the Law Society of Ireland.

- (b) Other words and phrases in these Regulations shall have the meaning assigned to them in the Acts.
- (c) In these Regulations, unless the context otherwise requires, the singular includes the plural.

3. These Regulations are made without prejudice to the right of the Society to investigate alleged misconduct by a solicitor and the Committee shall comply with such procedures as may be adopted by the Society for the investigation of alleged misconduct by a solicitor.

4. These Regulations shall be applied so as to be in conformity with the Acts and in the event of there being an apparent conflict between these Regulations and any provision or provisions of the Acts these Regulations shall be construed so as to be in conformity with the provision or provisions of the Acts.

5. These Regulations shall be construed so as to be in conformity with any delegation of power as may be made from time to time in accordance with the Acts and any Regulations made thereunder and, in particular, by the Council to the Committee and by the Committee to senior officers of the Society including senior officers in the Complaints Section of the Society.

6. These Regulations are made without prejudice generally to the provisions of the Acts.

Part 2 – Management of a complaint

7. A complaint shall:
 - (a) be in writing;
 - (b) be signed by or on behalf of the complainant;
 - (c) provide the address of the complainant;
 - (d) provide a current postal address for correspondence with the complainant or designated representative, if different to (c).

8. An investigating officer may decide on the admissibility of the complaint.

9. An investigating officer shall:
 - (a) manage the investigation;
 - (b) keep the solicitor and complainant informed by correspondence of the progress of the investigation;
 - (c) furnish all relevant correspondence and documentation to the solicitor and to the complainant;
 - (d) inform the complainant and the solicitor of the statutory powers of the Society, as set out in **Appendix 1** to these Regulations, in the investigation;
 - (e) require the solicitor to provide his/her comments and explanations within a specified time.

10. The Society may:
 - (a) require the solicitor, without prejudice to any of the powers of the Society pursuant to the Acts including Section 10(A)(1) of the Act of 1994, to provide a response in relation to the complaint to the Society in a timely manner;
 - (b) require the solicitor, without prejudice to any of the powers of the Society pursuant to the Acts including Section 10 and Section 14 of the Act of 1994, to produce documentation to which the complaint relates.

11. Failure by the solicitor to respond to the Society or comply with its requirements in the investigation of a complaint without reasonable cause may amount to a conduct issue.

12. The Society shall decide with regard to the particular circumstances of each complaint, in a manner consistent with fair procedures and with the requirements of Section 8 or Section 9 or both as applicable, on the appropriate steps to be taken to resolve the matter by agreement between the parties concerned.

13. An investigating officer may:

- (a) monitor the progress of the complaint;
- (b) make recommendations to the parties concerned with a view to resolving the complaint;
- (c) reject the complaint;
- (d) refer the complaint to the Committee where appropriate or necessary;
- (e) assist the Committee as required.

Part 3 – Committee meetings

14. Where a complaint is referred to the Committee:

- (a) the Society shall notify the solicitor and the complainant of the referral, of the date and time of any meeting of the Committee at which the complaint will be considered, the purpose of the meeting, the matters to be considered at the meeting, and the steps which may be taken by the Committee;
- (b) a solicitor is entitled to attend any meeting at which a complaint against him or her is to be considered;
- (c) the Society may require a solicitor to attend a meeting of the Committee at which the complaint will be considered and in the event that it is necessary may invoke its powers pursuant to Section 10(A)(1) of the Act of 1994;
- (d) failure by the solicitor to attend a meeting of the Committee when required to do so, without reasonable cause, may amount to a conduct issue.

15. A solicitor and a complainant may submit written submissions for consideration by the Committee on or before such date in advance of the meeting as may be specified by the Society.

16. Where a solicitor requests an adjournment of the Committee's consideration of a complaint:

- (a) in all cases, the solicitor shall give reasonable notice in writing to the Society showing good and sufficient reason;
- (b) in all cases where there are medical grounds the request should be accompanied by medical evidence and the request may be refused in the absence of such medical evidence;
- (c) an adjournment request may be approved in advance of a Committee meeting by the Chairman of the Committee or his/her nominee.

17. If a solicitor does not, without reasonable explanation:

- (a) appear before the Committee when required to do so; and/or
- (b) provide a response to any allegations within the time specified by the Committee;

and in the absence of an adjournment having been granted, the Committee may deal with the complaint in his/her absence on the basis of the documents already furnished and information available to the Society and in accordance with these Regulations and the Acts.

18. The Committee may seek legal opinion in relation to the investigation of a particular complaint. Where it does so it shall disclose such opinion to the solicitor and afford the solicitor an opportunity to make submissions in response to such opinion before making a decision on any matter in respect of which the opinion has been obtained.

19. The Committee may seek independent expert report(s) to assist it. Where it does so it shall disclose such report(s) to the solicitor and afford the solicitor an opportunity to make submissions in respect of such report(s), to include the opportunity to submit expert report(s) in response.

20. At each Committee meeting:

- (a) the Committee shall, where possible, and in a manner consistent with fair procedures act in an informal and expeditious manner;
- (b) subject to any express provision in these Regulations, the Committee may regulate its procedure;
- (c) if the solicitor and the complainant are attending a meeting they shall attend separately before the Committee save where the Committee directs otherwise;
- (d) a solicitor who is required to attend before the Committee may attend any such meeting personally or by legal representation or both (unless expressly required by the Committee to attend in person, when the solicitor shall attend in person with or without

legal representation) and shall be permitted to make oral and/or written submissions;

- (e) a complainant attending before the Committee may attend at the discretion of the Committee and in accordance with the guidelines for attendance at Committee meetings;
- (f) the meeting shall take place in private and no audio or visual recordings of the meeting shall be permitted, save that a record of the meeting (excluding any deliberations of the Committee) may at the request of the solicitor and with the consent of the Committee, be taken by a stenographer, subject to a right of the Committee to be provided with a copy of the transcript, free of charge and at the same time as it is delivered to the solicitor;
- (g) the Committee shall arrange for a minute to be taken (excluding any deliberations of the Committee).

21. The Committee shall satisfy itself, without prejudice to the provisions of Section 13 of the Act of 1994), that:

- (a) the complaint is or has been investigated; and
- (b) all appropriate steps are or have been taken to resolve the matter by agreement between the parties concerned; and
- (c) the parties have had an opportunity to consider all relevant documentation furnished to the Committee;
- (d) without prejudice to paragraph c:
 - (i) all allegations made by the complainant to the Society, whether orally or in writing, have been notified to the solicitor; and
 - (ii) all relevant responses made by the solicitor to the Society in respect of the complaint, whether orally or in writing, have been notified to the complainant.

22. If, following the above steps at Rule 20(a), (b), (c) and (d), the matter is not resolved by agreement the Committee shall make a decision in respect of the complaint under Section 8 and/or 9 and:

- (a) in respect of a complaint under Section 8, may reject the complaint, or if it thinks fit, make a determination or direction(s) as provided for at Section 8(1)(a) to (e).
- (b) in respect of a complaint under Section 9, may reject the complaint, or if satisfied that the bill of costs is excessive, issue a direction as provided for in Section 9(a) or (b).

23. The Committee and the investigating officer shall give reasons for their decisions.

24. A solicitor in respect of whom a determination or direction has been made may, within a period of 21 days of the notification of such determination or direction, apply to the High Court pursuant to the provisions of Section 11(1) of the Act of 1994 for an order directing the Society to rescind or vary such determination or direction.

25. A client who is dissatisfied with the manner in which his/her complaint has been dealt with by the Society may complain to the Independent Adjudicator of the Law Society.

26. Failure by a solicitor to comply with a determination or direction of the Committee, without prejudice to the general right of the Society to investigate alleged misconduct, may amount to a conduct issue.

27. In accordance with its powers under the Acts, and without prejudice to the full extent of those powers, the Committee may exercise all of the powers set out in Section 12(1) and /or Section 12(2) of the Act of 1994.

Signed on behalf of the Law Society of Ireland pursuant to
Section 79 of the Solicitors Act 1954.

20 September 2019

JOHN ELLIOT,
Registrar of Solicitors.

I consent to the making of the within Regulations pursuant
to Sections 8(8) and 9(7) of the Solicitors Act, 1954.

27 September 2019

MR. JUSTICE PETER KELLY,
President of the High Court.

Appendix 1:
Legislation (as amended/inserted/substituted)

Section 8 of the Act of 1994
Section 9 of the Act of 1994
Section 10 of the Act of 1994
Section 10(A) of the Act of 1994
Section 11 of the Act of 1994
Section 12 of the Act of 1994
Section 13 of the Act of 1994
Section 14 of the Act of 1994

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