

THE LAW SOCIETY OF NORTHERN IRELAND



100
YEARS

SOA1

Standard of Acceptance Policy – Professional Conduct Complaints

- 1.1 The Law Society of Northern Ireland (the Society) is the professional body for the solicitors' profession in Northern Ireland. Under the [Solicitors \(Northern Ireland\) Order 1976 as amended](#) (the **Order**), the Society acts as the regulatory authority governing the education, accounts, discipline and professional conduct of solicitors in order to maintain the independence, ethical standards, professional competence and quality of services offered to the public.
- 1.2 The Society's regulatory objectives are to:
- Maintain and uphold high standards of professional conduct.
 - Protect clients and the public.
 - Uphold public confidence in the provision of legal services.
 - Apply regulatory powers in a manner guided by the public interest.
- 1.3 This policy outlines how the Society, after receiving a professional conduct complaint, assesses the information and reaches its decision.

Reasonable Adjustments

The Law Society recognises that everyone should have equal access to our complaints process and communicate easily with the Society. The Society's Reasonable Adjustments Policy can be found on the Law Society website at [Policies | The Law Society of Northern Ireland](#).

2. Purpose

2.1 The purpose of this policy is to:

- Clarify what we investigate as allegations of misconduct, the aim of which is to provide a proportionate threshold which allegations must meet before they are investigated.
- Explain how the Society makes its decision to investigate.
- Explain the circumstances where the Society cannot intervene.
- Set out the expectations for engagement with the Society.

2.2 It is not intended to act as a barrier to making a complaint, but simply to act as a filter to ensure that resources are not expended on pursuing matters which do not cause credible cause for concern.

3. Types of Complaint

3.1 There are two types of regulatory complaints, namely:

- **Client Complaints:-** These are complaints which concern the adequacy of the professional service provided to a client by a solicitor or their firm. Client complaints can also be made by beneficiaries under a will or trust. Examples include allegations of undue delay/inaction, withholding/loss of documents, failure to respond. These complaints are considered independently of the Society by the Solicitors Complaints Committee.

If a complaint to the Solicitors Complaints Committee involves elements of professional negligence, correspondence will be issued explaining the limitations to the investigation and any potential outcomes. If the complaint involves both

professional service and negligence allegations, nothing shall preclude the Solicitors Complaints Committee from considering the allegations of professional service, and a finding may be made which constitutes loss, inconvenience or distress to the complainant as a result of the solicitor's actions, or inactions.

Information on how to make a client complaint can be accessed by the following website: <https://scc-ni.org/>

- **Professional Conduct Complaints:-** These are complaints which concern the professional conduct of a solicitor or firm of solicitors recorded on the **Roll of Solicitors of Northern Ireland** (the NI Roll) and are considered by the Society. A Professional Conduct complaint can be made by anyone including members of the public, solicitors, the courts, PSNI and other regulators. These complaints focus on serious breaches of professional conduct or ethical standards, potentially harming the public or undermining the profession. Each complaint is different and will be assessed on its own facts and circumstances. Where a complaint is made on behalf of another person, the Society may require that individual's consent. Information on how to make a Professional Conduct Complaint is located via: <https://lawsoc-ni.org/using-a-solicitor/making-a-complaint/professional-conduct-complaint/making-a-conduct-complaint>.

4. What type of professional conduct complaints cannot be considered?

4.1 The Society cannot consider professional conduct complaints:

- Against persons who are not named on the **NI Roll**. We cannot take disciplinary action against individuals or firms that we do not regulate.
- Against barristers or members of the judiciary.
- Concerning matters which are currently subject to ongoing police investigation.
- Where Court proceedings are ongoing and matters are live before the Courts. In this case, any concerns are best raised with a legal representative or the presiding Judge where the Judge would be best placed to determine if there is any misconduct on the part of the solicitor.

- Alleging professional negligence, that is where a complainant alleges that a loss has occurred as a result of the actions or inaction of a solicitor. If you consider that a solicitor has acted negligently you are at liberty to seek independent legal advice from a different solicitor as to the civil remedies available to you. A 'Directory of Solicitors' is available on the Law Society website at: www.lawsoc-ni.org. The Society cannot provide legal advice, including whether a solicitor has been negligent.
- Relating to the adequacy of professional services provided by a solicitor as explained at 3.1 (Client Complaints) above.
- Clients are entitled to be provided with clear, written information about legal costs, and solicitors must provide a clear bill of costs outlining the charges. If you consider that the bill of costs is excessive, you can make an application to obtain a Remuneration Certificate. This process is only available in respect of non-contentious business, that is, work that does not involve litigation or disputes, where the bill has not already been paid. A request for a Remuneration Certificate must be made within one month of receiving the bill. Information on how to make an application can be accessed by the following website: <https://lawsoc-ni.org/using-a-solicitor/about-your-solicitors-bill>
Where evidence of serious overcharging is found the matter will be referred to the Professional Conduct Committee for investigation.
- Additionally, the Society cannot comment on the legal advice provided or where you have been unable to secure representation. In this case, you should refer to the Directory of Solicitors in order to obtain independent legal advice. We cannot direct a solicitor on how to handle a case.

In some circumstances it may be more appropriate that complaints received are first dealt with by other bodies e.g. the Information Commissioner's Office. In such situations the Society will endeavour to signpost complainants to the appropriate forum.

The Society does not have the power to make a solicitor apologise or pay compensation. Such directions may be available to the Solicitors Complaints Committee where a client service complaint is made and upheld. More information on this process can be found on the Solicitors Complaints Committee website at www.scc-ni.org.

In line with General Data Protection Regulations (GDPR) the Society cannot process or retain data

unless it has a lawful basis for doing so.

5. What type of professional conduct complaints does the Society consider?

5.1 The Society investigates breaches of regulations and professional misconduct. These include but are not exhaustive of the following allegations:

- Dishonesty, fraud or abuse of trust.
- Breach of undertaking.
- Acting in a conflict of interest.
- Acting in a manner likely to bring the profession into disrepute.
- Exploitation of a vulnerable client.
- Conduct relating to serious criminal offences.
- Persistent failure to respond to reasonable enquiries.
- Misleading a client or professional colleague.
- Seriously or persistently failing to meet the Society's Regulations including but not exhaustively the Solicitors Accounts Regulations or actual or potential breaches of the statutory [Money Laundering Regulations 2017](#).

6. How the Society will assess a Professional Conduct Complaint

Where a complaint is received concerning the conduct of a solicitor, this will be assessed by the Professional Conduct department where the three-stage threshold test (the **Regulatory Threshold Test**) will be applied.

The Regulatory Threshold Test:

1. **Is the solicitor or firm on our NI Roll and has there been a breach of the Society's regulations?** The Society's remit only extends to the solicitors or firms on the NI Roll. However, where there is an allegation of misconduct in another jurisdiction and the subject solicitor is recorded as a solicitor on the NI Roll, in addition to any steps taken by the regulator of that jurisdiction, the Society will consider the solicitor's conduct where appropriate. Although another regulator may be best placed to consider the complaint, the information may be relevant to the overall compliance, integrity and reputation of the solicitor.

The term 'solicitor' is a protected term, however, where an 'Unqualified Person' is holding themselves out as a solicitor or conducts work reserved for a solicitor, this should be reported to the Society. Subject to the Society's assessment, the Society may consider a referral to PSNI.

The [Order and Regulations](#) set out the standards to which solicitors in Northern Ireland must adhere and the Society can only intervene where there is an alleged failure to adhere to those standards.

A comprehensive list of the standards are located via: <https://lawsoc-ni.org/about-the-law-society/our-role/regulations-standards>.

We appreciate it may prove difficult for you to articulate the alleged breach, and therefore it is essential that full details of the behaviour are provided in order for any alleged misconduct to be identified.

2. Is the information capable of amounting to a complaint requiring regulatory action to be taken?

Not all matters of professional conduct require the intervention of the Society as regulator. The Society must focus its resources on those most serious breaches based on a risk-based approach. We may not investigate minor breaches, where the evidence suggests the likelihood of repetition and risk is low. In considering what action (if any) to take the Society will note any previous regulatory complaint history and the outcomes, to identify any patterns that may need to be addressed. We will focus on misconduct most likely to harm the public and ensure that all investigations undertaken are proportionate.

In establishing whether any information received is capable of amounting to an allegation, the Society may make what preliminary enquiries it considers necessary. Preliminary enquiries will depend on the nature of concerns raised but may include seeking further documentation from a third party e.g. employer or other regulatory body.

3. Is there evidence or is evidence capable of being provided?

Where the threshold tests one and two have been met, we will consider the evidence provided or capable of being provided. The onus is on the complainant to provide written evidence, however in some circumstances we appreciate that this may prove difficult. Where you are unable to provide the evidence, we will try to establish if the evidence is capable of being provided from the solicitor. Sometimes there are factors which may impact the ability to obtain the best evidence e.g. the passage of time, recollections of any witnesses, the availability of case files which may have been destroyed legitimately.

The Society will assess your complaint and consider if the regulatory threshold has been met in order to decide whether to open the complaint for investigation. Further information may be requested from you in order to establish the above.

There is no strict time limit for reporting concerns about a solicitor's conduct however it is recommended to report concerns as soon as possible to increase the chances of obtaining evidence to support the complaint. If events took place some time ago, the Society may determine that it is not proportionate or in the public interest to investigate.

Anonymous & Whistleblowing Disclosures

Members of the public, solicitors and other persons working in the legal sector may raise a concern with the Society about serious wrongdoing, risk to the public or professional misconduct of which they become aware, whether through the workplace or with a solicitor. This includes individuals under a contract of employment, trainees and agency staff, as well as external suppliers and clients. The Society's separate whistleblowing policy can be located at <https://lawsoc-ni.org/about-the-law-society/our-role/reporting-concerns-disclosure-whistleblowing-policy>.

The Society will take all reasonable steps to maintain the confidentiality of the whistleblower where that is requested, unless required by law to break that confidentiality, or unless failure to disclose the identity of the witness prejudices the Society's enquiry or investigation, if any.

Where the Society receives an anonymous disclosure, it must be understood that the Society's

inability to ask questions or seek further information in such circumstances may impede or hamper the Society in any enquiries or investigation it may consider it necessary or proportionate to make, in the public interest.

Vexatious Complaints

In making allegations to the Society, most people act entirely reasonably and in good faith. However, a small number of complaints are vexatious, in that they persist unreasonably to make allegations other than genuinely to resolve a concern.

Vexatious complaints unnecessarily divert valuable resources from their true purpose; public protection, and therefore it is important that such allegations are properly identified and managed.

Each complaint will be considered on its own merits; however an allegation may be regarded as vexatious where the person making the complaint: -

- Persists in pursuing an allegation which has already been investigated by the Society and provides no new and material information.
- Continually raises further concerns or questions whilst the allegation is being addressed.
- Fails to clearly identify the substance of an allegation or the precise issues which may need to be investigated, despite reasonable efforts by the Society to assist the person making the allegation to do so.
- Makes allegations solely about trivial matters to an extent which is out of proportion to their significance.
- Makes excessive contact with the Society or seeks to impose unreasonable demands or expectations on resources, such as responses being provided more urgently than is reasonable or necessary.

In cases where it is decided that an allegation is vexatious and without supporting evidence the Society will not proceed with an investigation and will inform the complainant in writing of the decision.

Decision

The outcome of the assessment will be communicated in writing.

If we decide to investigate the complaint reported, the Society will write to you to explain the next steps.

A decision not to proceed with an allegation on the basis that it does not meet the Standard of Acceptance will only be taken after consideration of all the available information. Clear reasons for the decision will be recorded, and this will be communicated in writing.

Unless there is a good reason not to, the Society will communicate the outcome not to proceed to the solicitor against whom the complaint was made. This outcome will not affect a solicitor's formal record.

If you are unhappy with the outcome of your complaint, you are at liberty to request a review of same. New additional information or evidence (not previously considered) will be required to facilitate this request.

Unacceptable Behaviour Policy

Our staff members have the right to work in an environment free from violent, threatening, or abusive behaviour. The Society takes a zero-tolerance policy towards the above directed at Society staff either by written communication or via telephone. A copy of the Society's Unacceptable Behaviour Policy can be read in full on the website: <https://lawsoc-ni.org/assets/general/files/Policy-Info/Unacceptable-behaviour-policy.pdf>