



STATUTORY INSTRUMENTS.

S.I. No. 573 of 2019



LEGAL SERVICES REGULATION ACT 2015 (COMPLAINTS
PROCEDURES) REGULATIONS 2019

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The Legal Services Regulatory Authority, in exercise of the powers conferred on it by section 55 of the Legal Services Regulation Act 2015 (No. 65 of 2015), hereby makes the following regulations:-

Citation

1. These Regulations may be cited as the Legal Services Regulation Act 2015 (Complaints Procedures) Regulations 2019.

Interpretation

2. (1) In these Regulations, “Act” means the Legal Services Regulations Act 2015 (No. 65 of 2015).

(2) In these Regulations, unless the context otherwise requires, other words and phrases have the meanings (if any) assigned to them by the Act. In the event of there being an apparent conflict between these Regulations and any provision(s) of the Acts, these Regulations shall be construed so as to be in conformity with the provisions(s) of the Act.

Submission of complaint

3. A complaint in respect of a legal practitioner, under section 51 of the Act, shall be submitted in writing to the Authority—

- (a) by online complaint form on the Authority’s website,
- (b) by email to the address specified on the Authority’s website, or
- (c) by post to, or by hand at, the Authority’s principal offices.

Notification by Law Society of solicitor misconduct

4. The Law Society shall notify the Authority in writing, under section 51(5) of the Act, of its opinion that an act or omission of a solicitor constitutes misconduct in writing forthwith following the forming of such opinion.

Notification of legal practitioner

5. (1) The Authority shall notify the legal practitioner concerned of the complaint under section 57(2) of the Act, and where the legal practitioner was at the material time an employed legal practitioner the Authority shall notify the relevant employer or managing partner of the firm and provide them with a copy of the complaint.

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 22nd November, 2019.*

(2) Where the legal practitioner concerned was providing legal services to a client in receipt of legal services under the Civil Legal Aid Act 1995, the Authority shall notify the Legal Aid Board of the complaint and provide them with a copy of the complaint.

Procedures in general

6. (1) The Authority, the Review Committee and the Complaints Committee shall regulate its own procedures and shall endeavour to ensure that their procedures are as informal as is consistent with the principles of fair procedures and that undue expense is not incurred by the complainant or the legal practitioner concerned.

(2) The Authority, the Review Committee and the Complaints Committee shall ensure that the investigation and hearing of complaints and reviews under Part 6 of the Act is carried out as efficiently and expeditiously as may be consistent with fairness and natural justice.

(3) A time period provided for in these Regulations may be extended or abridged by the Authority, the Review Committee or the Complaints Committee, as applicable, on written request of the relevant party, where the Authority or Committee is satisfied that the extension is appropriate and would not cause an injustice to the other parties to the complaint.

Time period for submission of further information in preliminary reviews of complaints

7. Where the Authority requests further information from the complainant or the legal practitioner under section 57(4) of the Act, such information shall be furnished within 21 days of the date of the request.

Time periods in relation to informal resolution

8. (1) The client and the legal practitioner shall respond to an invitation under section 60(1) or 61(1) of the Act from the Authority to make efforts to resolve the matter the subject of the complaint in an informal manner within 21 days of the date of the invitation.

(2) The client and the legal practitioner shall respond to an invitation under section 60(5)(c) or 61(5)(c) of the Act from the Authority to furnish to it a statement setting out their respective positions in relation to the matter the subject of the complaint within the time specified by the Authority in the invitation.

Time period for written statements in reviews of determinations of Authority

9. The client and the legal practitioner shall provide a statement in writing to the Review Committee before it makes a determination under section 62(5) of the Act within 21 days of the invitation being issued.

Creation of Divisional Committees

10. (1) In respect of complaints referred by it to the Complaints Committee under section 68 of the Act, the Authority shall assign members of the Complaints Committee to act as a Divisional Committee in relation to the investigation of complaints.

(2) In assigning particular members to a Divisional Committee, the Authority shall take into account the provisions of section 69 of the Act and the availability of the members.

(3) The Authority shall appoint one of the lay members assigned to each Divisional Committee as the Chairperson of that committee under section 69(8) of the Act.

Hearings before Divisional Committees

11. (1) Where a Divisional Committee requires the complainant and the legal practitioner in a complaint referred to it to appear before the Committee pursuant to section 70(9) of the Act, it shall give the complainant and the legal practitioner 21 days' notice of the hearing date.

(2) Any application for the adjournment of a hearing notified pursuant to paragraph (1) shall be made in writing to the Secretary of the Divisional Committee as soon as possible and at least 14 days before the hearing date.

(3) The Chairperson of the Divisional Committee shall consider any adjournment application by complainants or legal practitioners. Where there are medical grounds for the adjournment application, the application should be accompanied by medical evidence and may be refused in the absence of such evidence.

(4) The Chairperson of the Divisional Committee shall only adjourn a hearing where the interests of justice require it.

(5) Neither the complainant nor the legal practitioner (nor anyone on their behalf) shall communicate with any individual member of the Complaints Committee in relation to a complaint before any Divisional Committee, except during the course of a hearing.

(6) The meetings of the Divisional Committee shall take place in private and a minute of the meeting (excluding any deliberations of the Committee) shall be taken. The Divisional Committee reserves the right to record the proceedings of the Divisional Committee (excluding any deliberations of the Committee).

(7) Both the Complaints Committee and the Review Committee may seek legal opinion in relation to the investigation of a particular matter. Where it does so, it shall disclose such opinion to the legal practitioner and the complainant and afford the legal practitioner and the complainant 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.

(8) Both the Complaints Committee and the Review Committee may seek independent expert report(s) to assist it. Where it does so it shall disclose such report(s) to the legal practitioner and the complainant and afford the legal practitioner and the complainant an opportunity to make submissions in respect of such report(s), to include the opportunity to submit expert report(s) in response.

Non-appearance at hearings

12. (1) Where a complainant fails to appear at a hearing before a Divisional Committee without good reason and where the complaint's attendance was required, the Committee may deem such failure to appear, where attendance was required, as the withdrawal of the complaint under section 70(11) of the Act.

(2) Where a legal practitioner fails to appear at a hearing before a Divisional Committee without good reason and where the legal practitioner's attendance was required, the Committee may proceed in his or her absence and the failure to appear where attendance was required, may be considered misconduct under section 50(1)(m) of the Act.

Withdrawal of complaint

13. (1) Before making a decision under section 70(11) of the Act as to how it is to proceed following the withdrawal of a complaint, the Divisional Committee shall consider—

- (a) the seriousness of the complaint,
- (b) the practicalities of proceeding with the investigation without the complainant, and
- (c) whether it would be in the public interest to proceed with the investigation.

(2) A decision under section 70(11) of the Act as to as to how to proceed following the withdrawal of a complaint, and the reasons for such decision, shall be communicated to the parties in writing.

Compliance with direction of Divisional Committee

14. (1) Where, in accordance with section 71(1)(a) of the Act, a Divisional Committee issues a direction to a legal practitioner to take such measures as are specified in the determination of the Divisional Committee, the Divisional Committee may specify the time period within which the measures are to be taken or within which evidence of the measures having been taken is to be furnished to the Authority.

(2) Failure by a legal practitioner to comply with a direction within the time period specified pursuant to paragraph (1) may constitute misconduct under section 50 of the Act.



GIVEN under the Official Seal of the Legal Services
Regulatory Authority,
18 November 2019.

DR. DON THORNHILL
Chairperson

DR. Brian J. Doherty
Chief Executive Officer

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation).

These Regulations concern the making of complaints to the Legal Services Regulatory Authority under Part 6 of the Legal Services Regulation Act 2015, and the procedures to be followed by the Authority and its Complaints Committee in investigating such complaints.

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