

Complaints and Client Relations Committee (“the Committee”)
of the Law Society of Ireland (“the Society”)

1. Delegation by the Council to the Committee

The Council of the Society has, pursuant to the Solicitors Acts 1954 to 2008 and pursuant to its Council regulations, delegated to the Committee the Society’s functions as set out in the Council regulations. *[Note: As provided by section 4 of the Solicitors Act 1954, the functions vested in the Society by or under the Solicitors Acts 1954 to 2008 are performed by the Council and, as provided for by section 73 (as amended by section 7 of the Solicitors (Amendment) Act 1994) of the Solicitors Act 1954, the Council may appoint a committee for any purpose which the Council considers would be better effected by means of a committee and may delegate to the committee, with or without restrictions, the exercise of any functions of the Council.]*

2. Membership

- (a) The membership of the Committee may include solicitors and persons who are not solicitors (lay members).
- (b) The Committee usually sits in divisions, selected from one or other of the following panels:
 - (i) panel comprising: Andrew Cody(Chair) William Aylmer, Keith Walsh, Lenore Mrwick*, Mary Maher* Brian Callanan* and Ultan Courtney* ;
 - (ii) panel comprising Barry MacCarthy (Vice-Chair), Bernadette Cahill, Paul Egan, John McDonnell*, Michael Lynch*, Peter McLoone* and Noirin Greene*
 - (iii) panel comprising James O’Sullivan(Vice-Chair), Richard Hammond, Nicola Dunleavy, Vera Hogan*, Michael Carr*, Frank Cunneen*, Dan Murphy*,

*Lay members.
- (c) The quorum of the Committee or any division of the Committee shall be three members, of which a majority shall be lay members; relevant executives of the Society also attend.
- (d) It is not permissible for a complainant or the solicitor concerned (or anyone on their behalf) to communicate with any individual member of the Committee in relation to a complaint in issue before the Committee (or a division thereof).

3. Meaning of “complaint”

Without prejudice to the generality and meaning of words and phrases contained in the Solicitors Acts 1954 to 2008 (including the investigation of alleged misconduct by a

solicitor, whether or not the Society receives a complaint in relation to the solicitor) and regulations made by the Society thereunder:

“complaint” includes:

- (i) an allegation of misconduct as provided for by section 3 of the Solicitors (Amendment) Act 1960 as amended by section 24 of the Solicitors (Amendment) Act 1994 and by section 7 of the Solicitors (Amendment) Act 2002,
- (ii) an allegation concerning the provision of inadequate legal services as provided for by section 8 of the Solicitors (Amendment) Act 1994,
- (iii) an allegation concerning the charging of excessive fees as provided for by section 9 of the Solicitors (Amendment) Act 1994, and

includes any allegation, including an allegation which for whatever reason has been withdrawn, where the Society considers that, in pursuance of its regulatory functions and in the public interest, the Society ought to investigate or continue to investigate.

4. Functions of the Committee

- (a) The Committee shall, where appropriate, endeavour to seek the resolution of complaints concerning the provision of inadequate legal services [*section 8, Solicitors (Amendment) Act 1994*] and/or concerning the charging of excessive fees [*section 9, Solicitors (Amendment) Act 1994*].
- (b) Where such a resolution is not achieved or, even when achieved such resolution is not, in the opinion of the Committee, deemed appropriate or sufficient in the public interest, the Committee may, on the basis of what is submitted by or on behalf of the complainant and by or on behalf of the solicitor concerned, decide to reject or to uphold the complaint and, if upheld, to impose a sanction. Sanctions vary according to the type of complaint in issue, and may include making or giving one or more of the following:
 - a determination as to whether or not the solicitor is entitled to any costs in respect of the provision of legal services [*section 8 (1) (a), Solicitors (Amendment) Act 1994*];
 - a direction to the solicitor to refund, or waive some or all of the solicitor’s costs [*section 8 (2) (a) or (b) and section 9 (1) (a) or (b), Solicitors (Amendment) Act 1994*];
 - a direction to the solicitor to transfer any documents relating to the subject matter of the complaint to another solicitor nominated by the complainant [*section 8 (1) (e), Solicitors (Amendment) Act 1994*];
 - a direction to the solicitor to secure the rectification of any error, omission or other deficiency arising in connection with the provision of legal services by the solicitor [*section 8 (1) (c), Solicitors (Amendment) Act 1994*];

- a direction to the solicitor to take such other action as the Committee may specify in order to remedy or mitigate the complaint [*section 8 (1) (d), Solicitors (Amendment) Act 1994*];
 - a direction to the solicitor to pay a sum not exceeding €3,000 (three thousand euro) as compensation for financial or other loss [*section 8 (1) (da), Solicitors (Amendment) Act 1994, as inserted by section 39, Civil Law (Miscellaneous Provisions) Act 2008*]
 - a direction to the solicitor to comply with (in whole or in part) an undertaking given by the solicitor to another solicitor or to another person or body;
 - a direction to the solicitor to withdraw or amend an advertisement;
 - a formal reprimand in writing to the solicitor in such terms as the Committee may deem appropriate, where the Committee are of the opinion that a complaint alleging misconduct or a complaint under section 8(1) or 9(1) of the Solicitors (Amendment) Act 1994 is justified but is not of sufficient seriousness to warrant an application being made to the Disciplinary Tribunal [*section 12 (as substituted by section 14, Solicitors (Amendment) Act 2002) Solicitors (Amendment) Act 1994*];
 - a direction to the solicitor to make a contribution towards the costs incurred by the Society (up to a maximum of €3000) in investigating the complaint [*section 12 (as substituted by section 14, Solicitors (Amendment) Act 2002), Solicitors (Amendment) Act 1994*]
- (c) Alternatively, where deemed appropriate and subject to 5(d) [*below*], the Committee may decide that:
- (i) the Society should make application for an inquiry to the Solicitors Disciplinary Tribunal in respect of the complaint(s) (or any one or more of them) made against the solicitor concerned; or
 - (ii) the Registrar of Solicitors should be directed to refuse an application by the solicitor concerned for a practising certificate or to issue a practising certificate subject to specified conditions [*section 49 (as substituted by section 61, Solicitors (Amendment) Act 1994 and as amended by section 2, Solicitors (Amendment) Act 2002), Solicitors Act 1954 and section 59, Solicitors (Amendment) Act 1994*];
 - (iii) that an application be made by the Society to the President of the High Court to suspend the current practising certificate of the solicitor concerned [*section 58, Solicitors (Amendment) Act 1994*].

5. Solicitor and complainant appearing before the Committee

- (a) A solicitor shall be notified in writing of the fact of the referral of a complaint(s) made against him/her to the Committee and of the date on which it is to be considered by the Committee and shall be informed that he is required to attend

or of his/her right to appear personally before the Committee and of his/her right to be legally represented there by a solicitor and counsel (or both).

- (b) The solicitor concerned, on appearing before the Committee, can make (personally or through his/her legal representative present) any submissions (s)he wishes to make in relation to the substance of the complaint(s) and can answer any questions from members of the Committee relating to the complaint(s).
- (c) If the solicitor concerned does not appear before the Committee when notified of his/her right to do so [*as set out in (a) (above)*], the Committee reserves the right to deal in his/her absence with the complaint(s) as the Committee deems appropriate in the particular circumstances on the basis of the documents already the subject of correspondence between the Society and the solicitor (or his/her legal representative), including imposing one or more of the sanctions as set out in 4(b) [*above*].
- (d) If the solicitor concerned does not appear before the Committee when notified of his/her right to do so [*as set out in (a) above*] and the Committee considers, on the basis of the documents already the subject of correspondence between the Society and the solicitor (or his/her legal representative), that it may be appropriate for the Committee to decide as set out in 4(c)(i) and/or (ii) and/or (iii) [*above*], the Committee shall not so decide without first adjourning the matter to a subsequent meeting of the Committee and causing that the solicitor be notified in writing that (s)he is required to appear before the Committee on the date to which the matter has been so adjourned and that failure to attend without reasonable cause may be regarded as a disciplinary matter; and the provisions of (b) and (c) (above) shall apply with the addition that the Committee may then decide as set out in 4(c)(i) and/or (ii) and/or (iii) [*above*].
- (e) In appropriate circumstances, and as part of its investigative functions in relation to a complaint against a solicitor, the Committee may request the complainant concerned to appear personally before the Committee; and where it does so, a minute of the substance of what the complainant states to the Committee shall be furnished in writing to the solicitor concerned before the solicitor is notified in writing of his/her right to appear before the Committee [*as set out in (a) (above)*] or is required to appear before the Committee [*as set out in (d) (above)*].
- (f) Any written response by the solicitor (or his/her legal representative) to the notification in writing [*as set out in (a) or (d) (above)*] (whether relating to the substance of the complaint(s) or otherwise) that is received by the Society before the Committee meets on the date so notified to the solicitor will be made available to the Committee.

6. Requests for adjournments

Where a solicitor is either notified of his/her right [*5(a)*] or is required in writing [*5(d)*] to appear before the Committee on a specified date, an adjournment to another date will only be granted in exceptional circumstances. Any request for an adjournment made by the solicitor concerned (or on his/her behalf) shall be made as soon as possible in writing to the Complaints and Client Relations Section of the Society (George's Court, George's Lane, Dublin 7, fax number 01-6724885) and shall specify the reasons for

which the adjournment is being requested. On receipt by the said Section of such a request in writing, the request shall be considered by the Chair or the Vice-Chair of the Committee and, where the request is granted, the solicitor shall be so notified initially by fax or telephone and subsequently confirmed by letter which shall notify the solicitor of the new date to which the matter has been adjourned.

7. Multiple complaints

The Committee may have regard to the number and nature of complaints previously made to the Society against the solicitor concerned, either alleging misconduct by the solicitor or concerning the provision of inadequate legal services as provided for by section 8, Solicitors (Amendment) Act 1994 or concerning the charging of excessive fees as provided for by section 9, Solicitors (Amendment) Act 1994, within the two preceding practice years **or** the need adequately to protect or secure the interests of the solicitor's clients, and the Committee may decide that the Registrar of Solicitors should be directed to refuse an application by the solicitor concerned for a practising certificate or to issue to the solicitor concerned a practising certificate subject to specified conditions [*section 49 (as substituted by section 61, Solicitors (Amendment) Act 1994 and as amended by section 2, Solicitors (Amendment) Act 2002), of the Solicitors Act 1954*].

8. Appeals to the High Court

- (a) An appeal to the High Court [*section 11, Solicitors (Amendment) Act 1994*] lies at the suit of a solicitor in respect of whom a determination or a direction has been made by the Committee in relation to complaints concerning the provision of inadequate legal services [*section 8, Solicitors (Amendment) Act 1994*] or the charging of excessive fees [*section 9, Solicitors (Amendment) Act 1994*], or in relation to the making by him/her of a contribution towards the costs incurred by the Society or the imposition on him/her of a formal reprimand [*section 12 (as substituted by section 14, Solicitors (Amendment) Act 2002), Solicitors (Amendment) Act 1994*] or in relation to the making by him/her of a payment of compensation [*section 8 (1) (da) Solicitors (Amendment) Act 1994 as inserted by section 39 Civil Law (Miscellaneous Provisions) Act 2008*]. The solicitor concerned has 21 days from the date of notification to him/her of the Committee's determination or direction within which to appeal. If such a right of appeal is not exercised by the solicitor concerned, the determination or direction of the Committee becomes "*absolutely binding*" on the solicitor immediately upon the expiration of such 21 day period.
- (b) An appeal to the High Court lies at the suit of a solicitor in respect of whom a direction has been made either to refuse an application for a practising certificate or to issue a practising certificate subject to specified conditions [*section 49 (as substituted by section 61, Solicitors (Amendment) Act 1994 and as amended by section 2, Solicitors (Amendment) Act 2002), Solicitors Act 1954*] or a solicitor in respect of whom a direction has been made that his/her practising certificate shall have effect subject to such specified conditions as the Committee may think fit [*section 59, Solicitors (Amendment) Act 1994*].

9. Compliance with decision of the Committee

- (a) Where the Committee has imposed one or more of the sanctions set forth in 4(b) [*above*] (subject to the outcome of any appeal to the High Court provided for under the Solicitors Acts 1954 to 2008 duly brought and pursued), the solicitor concerned, on being notified in writing of the decision of the Committee shall (insofar as the sanction(s) require(s) further action by the solicitor) duly comply with such decision in a timely manner.
- (b) The failure of a solicitor, on being so duly notified in writing [*as set out in (a) (above)*], to duly comply, in a timely manner or at all, with a decision of the Committee may constitute misconduct and may in consequence give rise to the solicitor, being required in writing to again appear before the Committee to explain such failure; and, in the absence of a response from the solicitor that is acceptable to the Committee, the Committee may decide as set out in 4(c)(i) and/or (ii) above.

10. Statutory powers and functions of the Society

For ease of reference, set out in the First Schedule hereto are provisions of the Solicitors Acts 1954 to 2008 that may be relevant or applicable to the exercise by the Society (through the Complaints and Client Relations Section or the Committee) of the Society's functions relating to dealing with complaints made against solicitors. For completeness, however, reference should be made by a solicitor concerned to the full extant texts of the Solicitors Acts 1954 to 2008.

11. Complaints and Client Relations Section

The Complaints and Client Relations Section of the Society initially deals with complaints made against solicitors. The Section may be contacted in writing at the Law Society of Ireland, George's Court, George's Lane, Dublin 7, by telephone (01-8798700) or by fax (01-8798785).

The Independent Adjudicator of the Law Society

Clients who are unhappy with the manner in which their complaint has been dealt with by the Law Society may refer the matter to the Independent Adjudicator. Further information is available from the Society.

FIRST SCHEDULE

Statutory provisions of the Solicitors Acts 1954 to 2002 that may be relevant or applicable to the exercise by the Society (through its Complaints and Client Relations Section or the Complaints and Client Relations Committee)

Solicitors Act 1954

Section 4

Solicitors (Amendment) Act 1994

Sections 8 (as amended by insertion of section 8 (1) (da) by section 39 Miscellaneous Provisions Act 2008) 9,10 (as amended by insertion of section 10A by section 13 of the Act of 2002), 11, 14 (as amended by section 15 of the Act of 2002 and sections 40, 41 and 42 Miscellaneous Provisions) Act 2008), 58, 59, 61 (as amended by section 2 of the Act of 2002 substituting section 49 of the Act of 1954).

Solicitors (Amendment) Act 2002

Sections 4, 14 (substituting section 12 of the Act of 1994) and 18

Civil Law (Miscellaneous Provisions) Act 2008

Sections 34, 39 and 40

Delegation of functions by the Council to the Complaints and Client Relations Committee

Extract from the Council Regulations delegating functions to the Complaints and Client Relations Committee and to the Complaints and Client Relations Section

[Note: "Act of 1954" means the Solicitors Act 1954 (No. 36 of 1954)

"Act of 1960" means the Solicitors (Amendment) Act 1960 (No.37 of 1960)

"Act of 1994" means the Solicitors (Amendment) Act 1994 (No. 27 of 1994)

"Act of 2002" means the Solicitors (Amendment) Act 2002 (No. 19 of 2002)

"Act of 2008" means the Civil Law (Miscellaneous Provisions) Act 2008 (No. 14 of 2008)]

General power of delegation by the Council to Committees

Regulation 30 and 31

Powers/functions delegated to the Complaints and Client Relations Committee that may be performed without reference to the Council

Regulation 52

Powers/functions delegated to the Complaints and Client Relations Committee with an obligation to report to the Council

Regulation 53

Powers of delegation by the Complaints and Client Relations Committee to a Senior Officer of the Society

Regulation 54