OFFICE OF THE
LEGAL SERVICES
COMMISSIONER

WHAT HAPPENS WHEN YOU COMPLAIN TO THE OLSC

The Office of the Legal Services Commissioner (OLSC) receives all complaints about solicitors and barristers licensed in NSW. We co-regulate the profession with the Law Society of NSW and the NSW Bar Association with whom we share responsibility for dealing with complaints and providing education. Formal complaints to the OLSC must be made in writing. We receive 2,500 - 3,000 complaints each year.

What happens once I make my complaint?

A file is created and a reference number allocated when your correspondence is received at the OLSC. Your complaint is usually assessed within two days of being received by senior staff and they will determine how your complaint is to be handled.

If your complaint is retained by the OLSC your file is allocated to an officer and an acknowledgement letter is dispatched within two days. Generally, action will be taken in relation to your complaint within two-three weeks.

Types of complaints

Complaints are treated as falling broadly into two categories:

- Consumer disputes capable of resolution by mediation.
- Complaints involving issues of professional misconduct or unsatisfactory professional conduct, which are investigated and may result in disciplinary action against a practitioner.

Who deals with my complaint?

We determine whether or not to investigate a complaint at the OLSC or refer it to the Law Society (for complaints about solicitors) or the Bar Association (for complaints about barristers).

Complaints regarding the conduct of solicitors, such as allegations of fraud or serious breaches of the trust account provisions, may be referred to the Law Society. The OLSC is more likely to investigate complaints that are in the public interest, arise out of referrals from courts or tribunals or involve a conflict of interest for the professional associations.

Consumer disputes, including disputes about costs, delay and failure to transfer documents, are usually handled at the OLSC where we try to negotiate solutions.

Complaints can also be referred to the Law Society if they are outside the jurisdiction of the Legal Services Commissioner. Such complaints include those about people holding themselves out as solicitors when they are not qualified or complaints about law clerks and paralegals. Complaints about lawyers providing migration assistance will normally be referred to the Office of the Migration Agents Registration Authority.

How long does it take to deal with my complaint?

The OLSC completes about 75 per cent of complaints within six months. Most consumer disputes are finalised within 4 months and often sooner. Investigations can take longer, particularly if they are complex or we have difficulty obtaining information from either party or from third parties. Investigations by the Law Society or Bar Association are targeted to be finished within six months but can also take much longer.

How do I know what happens to complaints referred to the Law Society or the NSW Bar Association?

You will be notified if your complaint is referred to the Law Society or Bar Association. The Law Society or Bar Association will communicate directly with you in the course of investigating your complaints.

We monitor investigations and consumer disputes with the Law Society and the Bar Association. The Law Society and the Bar Association provide the OLSC with six monthly progress reports for investigations and more frequent updates for consumer disputes. Written reports on the progress of your complaint can be requested if concerns arise.

We can also take over Law Society or Bar Association investigations where the investigation has not progressed, where relationships with the investigator have broken down or where a conflict of interest arises.

What can I do if I am not happy with the Law Society's or Bar Association's decision about my complaint?

The Legal Services Commissioner can review a decision made by the Law Society or Bar Association to dismiss a complaint, or to caution or reprimand a legal practitioner. You have two months after being advised of a decision to request a review.

The Legal Services Commissioner examines how the Council conducted its investigation and whether the decision was justified in light of the available evidence. The Legal Services Commissioner will decide after reviewing the evidence and the processes whether the decision is well founded. Our brochure, *Reviews by the Office of the Legal Services Commissioner,* has further information on the review process.

What types of complaints do you dismiss?

We dismiss complaints for a number of reasons, including:

- the complaint is misconceived or based on inaccurate information;
- insufficient information is provided;
- the complaint is based on a right the complainant thinks they have, which they do not have;
- the complaint is not within the Legal Services Commissioner's jurisdiction (such as those made about Judges or Magistrates which should be referred to the Judicial Commission) or people holding themselves out as legal practitioners when they are not qualified (which should be referred to the Law Society or Bar Association);
- when the complaint is vexatious or mischievous; or
- because it is in the public interest.

For further information about complaints to the Office of the Legal Services Commissioner go to our website www.olsc.nsw.gov.au or contact us toll free on 1800 242 958 or on (02) 9377 1800.