



Information

Complaints Investigation Information for Lawyers

Introduction

This Information Sheet outlines the Law Society complaint process and your obligations during an investigation. The Law Society's authority to conduct an investigation is set out in the *Legal Profession Act* (the "Act") and Part 3, Division 1 of the Law Society Rules 2015 (the "Rules"). You are encouraged to review the relevant provisions of the Act and Rules so that you are familiar with your obligations in responding to the investigation.

The mandate of the Law Society, as stated in section 3 of the *Legal Profession Act*, is to uphold and protect the public interest in the administration of justice. To this end, the Law Society regulates the profession to ensure that lawyers are practising honourably, with integrity and competently. The expectation is that lawyers will comply with the Act, the Rules and the *Code of Professional Conduct for British Columbia* (the "BC Code").

Investigation Process

The purpose of a complaint investigation is to determine whether a lawyer has committed a discipline violation that warrants further action by the Law Society.

Rule 3-4(2) states that the Law Society must treat information from any source indicating that a lawyer's conduct may amount to a discipline violation as a complaint.

Accordingly, not every investigation is initiated by a "complainant". A complaint investigation may be initiated by the Law Society based on information that comes to our attention, including court decisions and media reports.

The Law Society will obtain information and documents and make necessary inquiries to investigate the conduct concerns. The investigative steps may include seeking written responses from you and/or requiring your attendance at interviews. You will be provided with an opportunity to respond to the conduct concerns unless the investigator is satisfied that no response is necessary on the basis that the file can be closed with no further action. As the investigation progresses, new information may result in additional conduct

concerns being investigated. If you are unclear of the conduct issues under investigation, you are encouraged to seek clarification from the investigator.

Your Obligations During the Investigation

Your obligations in the investigation process are set out in the Rules and the *BC Code*, the current versions of which are available on the Law Society's website at www.lawsociety.bc.ca/support-and-resources-for-lawyers/act-rules-and-code.

Rules 3-5 to 3-8 set out a number of aspects of the investigation process. The key provisions include a lawyer's duty to respond to the investigation, provide information and attend interviews. During the investigation, your responses to the Law Society must be substantive and delivered within the time frames set out by the investigator.

Pursuant to Rule 3-6, if you fail or refuse to produce and permit the copying of documents, provide information or attend an interview, you may be suspended until you comply with the requirement to the satisfaction of the Law Society.

Alternatively, a failure by you to respond to the Law Society may be referred to the Chair of the Discipline Committee, with a recommendation for the issuance of a citation against you for failure to respond, pursuant to the summary hearing process. Details of the summary hearing process are set out in Rule 4-33.

If your ability to respond to the investigation is negatively impacted by a medical condition, including a psychological impairment, you may request that the Law Society consider whether there is a basis for reasonable accommodation should you require accommodation.

Outcome of Investigation

At the conclusion of an investigation, the Law Society may:

- close the file with no further action;
- refer your conduct to the Practice Standards Committee if there are sufficient competency concerns; or
- refer your conduct to the Discipline Committee for a disciplinary response.

You will be advised of the outcome of the investigation including any referral to the Practice Standards Committee or Discipline Committee.

The Practice Standards Committee reviews information about lawyers who may have competency-related problems and, when appropriate, the Committee makes recommendations to address shortcomings in the lawyer's practice. The Committee also has the authority to make orders restricting a lawyer's practice when an order is necessary to protect the public.

The Discipline Committee considers complaints referred to it at the conclusion of an investigation and determines whether further action in the form of a disciplinary response is warranted. The Committee may order any of the following:

- Conduct letter;
- Conduct meeting;
- Conduct review; or
- Citation.

Conduct reviews and citations form part of a lawyer's professional conduct record. Summaries of Conduct Reviews are published anonymously in the *Benchers' Bulletin*. Citations are published on the Law Society's website. For further information about disciplinary outcomes, please refer to Part 4 of the Rules.

Assistance During Investigation

You may wish to consider seeking the assistance of legal counsel. The Law Society has compiled a list of lawyers who have agreed to represent lawyers during the investigation and disciplinary processes. This list can be found on the Law Society's website at www.lawsociety.bc.ca/Website/media/Shared/docs/discipline/counsel.pdf.

If you require assistance in the form of confidential support or counselling, you are encouraged to review the resources listed on the Law Society's website at www.lawsociety.bc.ca/support-and-resources-for-lawyers/lawyer-wellness-personal-support/. These include the Lawyers Assistance Program and LifeWorks Canada. These services are completely confidential.

If you have questions or concerns during the complaint investigation, you are encouraged to contact the Law Society investigator assigned to the matter.