

# Complaints Investigation Information for Lawyers

## Introduction

1. 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.
2. The mandate of the Law Society, as stated in section 3 of the *Act*, is to uphold and protect the public interest in the administration of justice. In keeping with this mandate, the Law Society regulates the profession to ensure that lawyers are practising competently, ethically and honourably. The expectation is that lawyers will comply with the standards of conduct, including the *Act*, the Rules and the [Code of Professional Conduct for British Columbia](#) (the "BC Code").

## Investigation Process

3. 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.
4. Rule 3-4(2) requires the Law Society to treat information from any source indicating that a lawyer's conduct may amount to a discipline violation as a complaint. Not every investigation is initiated by a "complainant", as a complaint investigation may be initiated by the Law Society, based on information that comes to our attention. This includes concerns about a lawyer's conduct raised in court decisions, media reports, and discovered during a compliance audit of a firm.
5. In the course of an investigation, the Law Society will obtain information and documents and make necessary inquiries of witnesses.
6. The investigative steps may include requiring production of relevant records and documents from you. The investigator may also require written responses from you and your attendance at interviews.

7. 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.
8. As the investigation progresses, new information may result in additional conduct concerns being investigated. If you are unclear of the conduct issues under investigation, or have other questions about the complaint process, you are encouraged to seek clarification from the investigator.

### **Your Obligations During the Investigation**

9. Lawyers are required to cooperate with the Law Society's investigation, including responding promptly and completely to communications, providing requested information and attending interviews. You are encouraged to review [Rules 3-5 to 3-8](#) and [rule 7.1-1](#) of the *BC Code*.
10. [Section 88\(1.1\)](#) of the *Act* requires information, files or records to be produced during an investigation even if they contain information that is confidential or subject to solicitor client privilege.
11. Your responses to the Law Society must be substantive and, delivered as soon as practicable, and no later than the time frame set out by the investigator.
12. **Pursuant to [Rule 3-6](#), if you fail or refuse to produce and permit the copying of documents, to provide information, or to attend an interview, you may be suspended until you comply with the requirement to the satisfaction of the Law Society.**
13. Alternatively, a failure to respond fully 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 5-4.5](#).
14. 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

15. An investigation may be concluded with any of the following outcomes:
  - a. The complaint file is closed with no further action by the Law Society;
  - b. The complaint is closed with a referral to the Practice Standards Committee if there are sufficient competency concerns;
  - c. The complaint is referred to the Discipline Committee for a disciplinary response;
  - d. The complaint is referred for consideration of an administrative penalty under [Rule 3-8\(3\)\(c\)](#) [for breaches of Rule 3-59, Rule 3-96.1 or Part 3, Division 11-Client Identification and Verification];
  - e. The matter proceeds under [Part 3, Division 1.01](#) [Alternative Discipline Process (ADP) for health issues. See [Alternative Discipline Process](#)]; or
  - f. You and the Law Society agree to enter into consent agreement negotiations under [Rule 3.7-1](#). If a final consent agreement is reached, the complaint file is closed.
16. You will be advised of the outcome of the investigation including any referral to the Practice Standards Committee or Discipline Committee.
17. The Practice Standards Committee reviews information about lawyers who may have competency-related shortcomings and, when appropriate, the Committee makes recommendations to address the 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.
18. 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 meets about monthly to review complaints that have been referred to it. Neither the lawyer nor the complainant appear at the Committee's meetings.
19. The outcomes available to the Discipline Committee are set out in [Rule 4-4](#) and include:

- a. Conduct letter – Expresses the Committee’s concerns about the conduct and may include cautions about expected standards of practice. A copy or summary of the letter will be sent to the complainant.
- b. Conduct meeting – A meeting held between the lawyer and one or more Benchers or lawyers to discuss the conduct concerns.
- c. Conduct review – A formal meeting between the lawyer with one or more Benchers or lawyers to discuss the conduct concerns. A conduct review is not a hearing. The complainant is generally invited to attend part of the review. The conduct review subcommittee prepares a report following the meeting and this report forms part of the lawyer’s professional conduct record. A summary of the conduct review is published anonymously on the Law Society’s website.
- d. Citation – The authorization of a citation is the most serious outcome available to the Committee. A citation sets out the Law Society’s allegations against the lawyer and is made public on our website. The citation may result in a hearing before the LSBC Tribunal. If the Tribunal makes an adverse determination about the lawyer’s conduct, the sanction that may be ordered includes a fine, suspension or disbarment. Information about hearings and links to decisions are available on the [Tribunal’s website](#).

### **Assistance During Investigation**

20. You may wish to consider seeking the assistance of legal counsel in responding to the investigation. The Law Society has compiled a list of counsel who have expressed an interest in representing lawyers during the investigation and discipline processes [[List of Counsel](#)].
21. 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 [Lawyer Wellness and Personal Support](#). These include the Lawyers Assistance Program and LifeWorks Canada. These services are confidential.
22. If you have questions or concerns during the complaint investigation, you are encouraged to contact the Law Society investigator assigned to the matter.