

## Complaints outside our Legal Mandate

The Law Society regulates lawyers through professional standards including those set out in the *Legal Profession Act*, Law Society Rules 2015 and *Code of Professional Conduct for British Columbia*.

We review, record and respond to every complaint we receive. There are some complaints that we cannot assist you with as your concerns about a lawyer may be outside our legal mandate. We only investigate complaints that are within our jurisdiction and show a lawyer has failed to meet professional standards or, otherwise engaged in misconduct.

Law Society Rule 3-5(3) provides that we may close our file and decline to investigate a complaint if the complaint is outside our jurisdiction or if it does not allege facts that could be considered a discipline violation.

## Outside our Jurisdiction

The Law Society does not have legal authority to:

- Provide you with legal advice;
- Appoint a lawyer to assist you with your case;
- Intervene in your case or lawsuit;
- Change a court decision or order;
- Insist a lawyer take your case, remain on your case or withdraw from your case;
- Reduce or reimburse the legal fees a lawyer has charged you;
- Review a complaint about a judge or the legal system generally; or
- Review Crown Counsel's decision to approve or stay charges or proceed to a hearing.

## Conduct that is not a Discipline Violation

The Law Society must determine whether the facts or circumstances put forward in your complaint show that a lawyer committed a discipline violation. A discipline violation includes:

- a breach of a professional obligation or an ethical rule contained in the *Legal Profession Act*, the Law Society Rules 2015, or the *Code of Professional Conduct for BC*;
- evidence that shows a lawyer lacks the necessary skills and knowledge to practice competently, either generally or in a particular area; and
- conduct by a lawyer in their personal life, unrelated to their work, that raises serious questions about the lawyer's honesty and integrity, or is harmful to the reputation of the legal profession.

However not every breach of an obligation or rule contained in the *Legal Profession Act*, the Law Society Rules 2015, or the *BC Code* is a discipline violation. Any breach must still meet the legal test which is whether the conduct is a marked departure from the standard we expect of a lawyer.

Examples of complaints that are outside our jurisdiction or are not discipline violations include:

### ***Mistakes or Negligence***

Lawyers make mistakes like everyone else. Many mistakes do not amount to a discipline violation even if the mistake may have caused you a loss. Through the complaint process, we cannot order a lawyer to pay compensation to anyone for a loss caused by their mistake. Only the courts can order a lawyer to pay compensation.

### ***Breach of Supreme Court Rules***

Court proceedings are regulated by the Rules of Court and the general practice of the Courts. When the other side does not follow the rules of court (i.e. disclosure obligations or late filing), your remedy is through the Court. The Law Society cannot take any steps in your case or order a lawyer to take any steps.

### ***Complaints by Opposing Parties***

Court proceedings are, by their nature, adversarial. Lawyers often advocate firmly and forcefully on behalf of their clients, making claims you may feel are wrong or unfair. Lawyers are allowed to rely on information provided to them by their client and they do not need to verify every statement made.

### ***Letters indicating legal action may be taken***

Lawyers are allowed to state in clear, persuasive terms, the client's position, his or her demands, followed by an outline of legal steps or actions that may be taken if those demands are not met. These types of letters are commonly sent by lawyers and generally they do not amount to threats.

### ***Affidavits***

In having someone swear an affidavit, a lawyer is not guaranteeing the truth of its contents; they are confirming the identity of the party making the statements and that the person made the statements under oath in their presence. It is the role of the Court, not the Law Society, to decide whether the information given in the affidavit is true and reliable.