

# Information

## Negligence versus Incompetency

*Learn about the differences between negligence and incompetence.*

### What you should know

In reviewing a lawyer's conduct, the Law Society complaint process distinguishes between **negligence** and **incompetence**. The Law Society complaint process cannot pay you money or make a lawyer pay you money because of a lawyer's mistake. Even if we take disciplinary action against a lawyer that will not result in a financial award to you.

A court may find a lawyer to be negligent but that does not mean the lawyer is incompetent. A lawyer might be found negligent by a court if the lawyer made a mistake that caused you financial loss. However, whether a lawyer is negligent is a legal question that the court will decide. There may be a time limitation in starting a negligence legal action which is why you should seek legal advice about your remedies.

Staff in the complaints department may investigate concerns that a lawyer is incompetent. This occurs where there is evidence that a lawyer is performing far below the expected standard or where information suggests the lawyer is lacking the skills and abilities required to practise law. Unlike as is often the case with negligence, incompetence is not the result of a single or isolated mistake. The Law Society may take further action if a lawyer's mistakes indicate the public is at risk.

### What you can do

You can always let the complaints department know about your concern and although we cannot provide you with legal advice, we will review your information and determine whether to investigate the matter. If we decide the issue involves negligence as opposed to incompetence, we may decline to investigate.

If your purpose in making a complaint is to pursue financial compensation, only the courts determine whether someone has a valid claim for losses. The Law Society complaint process does not have the authority to make that type of decision. Making a complaint through our department will not result in an order for financial damages or compensation. You need to speak to a new lawyer about a potential claim. Please do not wait for us to assess your matter before getting legal advice. Our complaints process is separate from any legal action you may wish to take and is independent of the lawyers' liability insurance program managed by the Lawyers Indemnity Fund [Claims for negligence](#).