

# Do you have a problem with your lawyer?

This fact sheet explains how we can help you resolve a problem you may have with your lawyer

## INFORMATION FOR CONSUMERS

We are responsible for regulating the legal profession in Victoria.

One of our main functions is helping clients and lawyers resolve any differences they may have with each other. We help to resolve disputes over legal costs and the quality of the service provided. Where necessary we will investigate complaints about lawyers who may have done something that could amount to a breach of their professional standards.

### What can you do if you have a problem with your lawyer?

If you have a problem with your lawyer, the first thing you should do is to speak to your lawyer and attempt to resolve the problem with them directly. It might be caused by a misunderstanding or miscommunication that can be quickly resolved once the lawyer understands why you are not happy.

If your problem cannot be resolved, or you feel you cannot speak to your lawyer, consider raising your concerns with the lawyer's managing partner.

You are also entitled to change to another lawyer if you feel you can no longer work with your current lawyer. Please remember that your current lawyer is allowed to retain your file until his or her costs are paid.

### We can help guide you

Many clients feel at a disadvantage when they have a disagreement with their lawyer. You are welcome to call us for some suggestions on how you can resolve your issue without the need to raise the matter as a formal complaint.

### Before you make a complaint

Some problems are clearly more serious than others. While these may lead to a formal complaint, it is best to discuss your concerns with our office before you go to the effort of lodging a complaint. We can help you identify the issues and explain what we can do to help resolve them. It also gives us a better understanding of your concerns and what happened, which can help us identify a solution.

Please note: while anyone can make a complaint about a lawyer's behaviour, if the problem involves legal costs it is usually only the client who received the bill that can complain about those costs. For example, the beneficiary of an estate cannot complain about the bill that the executor received.

### How does the Commissioner deal with complaints?

When we receive a complaint, we assess the issues involved and decide how they can best be handled. In most cases involving costs disputes or service issues, we will contact the lawyer and try to help to resolve the problem. Many of these issues can be resolved within a matter of days or weeks.

In a limited number of cases, we need to undertake a formal investigation. These investigations can be complex and may take several months or even years to complete. It all depends on the number and type of issues involved and how cooperative the parties are.

In some cases we may not be able to deal with a complaint at all. If your complaint is to be closed without any formal action, we will explain the reasons for this decision to you.

### Disputes over legal costs

If you have a dispute with your lawyer about your legal costs, you need to try and resolve this with your lawyer before making a formal complaint. You are welcome to contact us so we can explain how best to do this.

If you have not been successful in resolving your dispute you can contact our office to make a complaint about your bill.

You must act promptly. You need to lodge your complaint with us within **60 days** of the bill's due date. If you requested an itemised bill from your lawyer, the timeframe changes to **30 days** from the date your lawyer provided you with the itemised bill. These time limits are usually fixed however in very limited circumstances they can be extended.

You can dispute your bill even if you have paid it in full or in part. We would need you to provide copies of all your bills and any costs disclosure document the lawyer gave you. We will also need copies of any correspondence you have had with the lawyer about the issues in dispute.

#### *How much can be disputed?*

Generally we can only deal with costs disputes where the total bill is **\$116,635** or less. We can deal with disputes in bills which exceed this figure only if the amount in dispute is **\$11,665** or less.

#### *How we deal with cost disputes*

We can help you in one or more of the following ways:

- undertake an informal dispute resolution process, (usually involving communicating settlement offers between each party by phone, in writing or in person);
- refer the dispute for formal mediation;
- arrange for an assessment of disputed costs;
- make a binding costs determination; or
- take any other action we consider necessary to assist the parties to reach an outcome that is acceptable to both parties.

If we are unable to help you resolve your dispute, we may either make an order determining what costs are payable, give you the right to refer the matter to the Victorian Civil and Administrative Tribunal (VCAT) or the Costs Court for a formal hearing, or we may close the complaint.

### Complaints about quality of service

Complaints about the quality of service your lawyer has given you are treated as disputes. They do not necessarily involve breaches of rules of conduct which a lawyer must abide by.

Examples include mistakes in draft documents, failure to return phone calls, minor delays and bad manners, among other issues.

As with complaints about legal costs, you must attempt to resolve these types of disputes with your lawyer before we can accept a complaint about them. These complaints must be made as soon as possible, but no more than **three years** after you experienced this problem.

These types of issue will usually be dealt with through an informal mediation process. This is generally the most efficient and least stressful way to resolve the complaint. In limited circumstances we can make an order to help resolve the issue.

### Complaints about a lawyer's professional standards

If we consider that your complaint raises more serious issues, such as fraud, theft, dishonesty or conflict of interest, we may decide to undertake a formal investigation as these issues may involve breaches of the lawyer's professional standards.

These types of complaints must be made within **three years** of the time when the alleged conduct occurred. In very limited circumstances a time extension can be given.

Our investigation processes for these complaints may take some time as investigations are typically very involved. You may be required to provide further information or assistance as part of an investigation.

An investigation may not necessarily result in a disciplinary finding against the lawyer. This will depend on the severity of the conduct and the evidence we are able to gather. If we are not able to determine that the lawyer has breached their professional obligations we may still use our findings to offer guidance to the lawyer and the legal profession generally.

Some investigations do result in disciplinary action being taken against the lawyer by either the Commissioner or by VCAT. These may involve penalties ranging from a caution or compensation orders, through to fines, reprimands, restrictions on their ability to practise law or even a strike-off, which is the most severe civil penalty that can be handed to a lawyer by a court.

### How do I make a complaint?

Please contact our office by telephone or email to discuss your issue with our staff. If we determine that we are able to deal with the issue, we can assist you in making a formal complaint. A telephone interpreting service is available by arrangement.

### Further information

Contact us:

Tel: 03 9679 8001 or 1300 796 344 (local call cost)

Email: [admin@lsbc.vic.gov.au](mailto:admin@lsbc.vic.gov.au)