

## The Law Society of New Brunswick

This section assists with three **Frequently Asked Questions** of the Law Society's Discipline and Complaints Department:

1. How do I proceed [to make a complaint](#) with respect to the conduct of a lawyer?
2. What can I do if [I feel a lawyer has been negligent or made an error](#) which has caused me to suffer a financial loss?
3. What can I do if [I feel that my lawyer's bill is too high](#) or unreasonable?

### 1) How do I file a complaint?

If you feel that a lawyer has conducted himself or herself improperly, you can file a complaint with the Law Society by contacting the Registrar of Complaints of the Law Society of New Brunswick in writing. The Registrar will investigate complaints regarding the conduct of lawyers practising in the Province of New Brunswick. The procedure you must follow is:

#### Step One

Write a letter naming the lawyer and describing your complaint **or** complete our [complaint form](#). Send your letter or your completed form to the Registrar of Complaints by mail or by fax. **We cannot receive complaints by telephone or by email.** ([Click here for the mailing address of the Law Society of New Brunswick.](#)) You may attach any documents that you feel are important in order to explain clearly your complaint. The complaint should cover "the five W's": who, what, where, when and why?

Who is the lawyer?  
What did he/she do or fail to do?  
Where did it happen?  
When did it happen?  
Why do you think it happened?

Make sure to include your name and contact information, including your full mailing address and telephone numbers.

#### Step Two

If the Registrar is able to investigate your complaint, details of the complaint will be forwarded to the lawyer, who will be asked to respond promptly to the Law Society with an explanation of the circumstances which resulted in the complaint.

#### Step Three

Once the lawyer's response is received, it will be evaluated and in most cases, a copy will be sent to you.

#### Step Four

If the complaint cannot be resolved, the Registrar of Complaints will consider all documentary material obtained and determine if the complaint has merit. If, in the opinion of the Registrar, the complaint is without merit, it will be dismissed. If the Registrar deems the complaint has merit, however, the Registrar will usually refer the complaint to the Complaints Committee.

## Step Five

If the complaint is forwarded to the Complaints Committee, the Committee will examine the documentary material emanating from the Registrar's investigation. The Complaints Committee may dismiss the complaint or, if the material shows that there is a situation that may warrant disciplinary sanctions against the lawyer, the Committee may conduct further investigation such as interviewing the parties. The Complaints Committee does not hold hearings. The lawyer may also request that the Committee make a decision based on the information before it.

Examples of complaints which have been considered by the Complaints Committee include:

- Failure to keep the client reasonably informed;
- Failure to answer reasonable requests from the client for information;
- Unexplained failure to respond to the client's telephone calls;
- Informing the client that some step will be taken by a certain date, then letting the date pass without follow-up information or explanation;
- Failure to answer within a reasonable time a communication that requires a reply;
- Withholding information from the client or misleading the client;
- Failure to make every effort to provide prompt service to the client;
- Acting in a matter when there was or was likely to be a conflicting interest; and,
- Failure to follow the client's instructions.

### **2) What if I feel a lawyer was negligent or made an error which has caused me to suffer a financial loss?**

Like other providers of professional services to the public, lawyers may make mistakes resulting in a client suffering a financial loss. The Law Society recognized this many years ago and requires that a lawyer who provides legal services to the public must be a member of a mandatory professional liability insurance programme that the Law Society has put in place.

This programme is designed to defend and indemnify any lawyer covered by it up to a \$1,000,000 limit. While this mandatory programme is in place, however, members of the public must understand that the procedure involved in claiming against a lawyer is no different than making a claim against any other provider of services.

If you believe a lawyer has made a mistake in providing legal services to you, and you wish to make a claim against that lawyer, you should obtain legal advice from a lawyer who will be able to advise you on the process. The Law Society's discipline and complaints department cannot pay you money or make a lawyer pay you money because of a lawyer's mistake. If you believe a lawyer has made a mistake, you will have to deal directly with the lawyer, sue the lawyer or seek legal counsel.

The Law Society manages the insurance programme but it does not make the final decision as to whether a lawyer was negligent and caused a loss. Only a court of law can make that decision.

In smaller communities, it is sometimes difficult to find a lawyer who is available to advise or represent you. You may have to consult a lawyer who practises outside of the community where your former lawyer practises. The Law Society and its staff cannot provide legal advice nor can it assist you in making a claim.

### **3) What can I do if I feel that my lawyer's bill is too high or unreasonable?**

The first step should be to contact your lawyer to discuss your concerns about the account. Ask for an itemized account if you do not already have one. It may be that your lawyer can provide additional explanations that will alleviate some of your concerns.

If you are not satisfied with your lawyer's explanations, you may wish to apply to have the bill "reviewed". The review process allows the client (or the lawyer) to have the bill reviewed by an independent third party called a "reviewing officer". The officer has the authority to confirm that the bill is fair and reasonable or to reduce the bill where appropriate.

To commence the review process, you must complete [Form 1 – Notice of Review](#) and serve it on the Law Society and on the other party (the lawyer). Please note that you must attach a copy of the bill or bills to this form.

Upon receipt of the form, the Law Society will select a reviewing officer to conduct the review. The selection is made from the list of reviewing officers appointed by the provincial government.

Once an officer has been assigned to conduct the review, the Law Society will contact you in writing and provide you with further information on the process and with instructions on what you must do in order for the review to proceed further.

At this point, you will be asked to forward to the Law Society an amount of \$150.00. This deposit, payable to the reviewing officer "in trust", will cover some of the costs associated with the review. Additional costs, if any, will be assessed by the officer and the officer will determine who is responsible for the costs. The final charges will often depend on the outcome of the review and on the time it takes.

It is also important to understand that if you wish to have a bill reviewed, you should contact the Law Society immediately. If you do not start the review process within 90 days of the date of payment of the bill, you may not be able to have it reviewed. This period can only be extended if the reviewing officer is of the opinion that there are special circumstances that justify an extension.

A document has been prepared to provide clients and lawyers with general information regarding the processes involved with Solicitor-Client Review Hearings. It is available [in PDF format](#).