

**STATEMENT ON COMPLAINTS ADJUDICATION
BY THE
INDEPENDENT ADJUDICATOR OF THE LAW SOCIETY OF IRELAND
for year ending 30 September 2020**

**CAROL ANN CASEY
INDEPENDENT ADJUDICATOR OF THE LAW SOCIETY**

9th December 2020

Statutory governance

The office of the Independent Adjudicator was established by Statutory Instrument No. 406 of 1997 – Solicitors (Adjudicator) Regulations, 1997 and Statutory Instrument No. 720 of 2005 – Solicitors (Adjudicator) (Amendment) Regulations, 2005.

<http://www.irishstatutebook.ie/eli/1997/si/406/made/en/print>

<http://www.irishstatutebook.ie/eli/2005/si/720/made/en/print>

Adjudicative remit:

The Independent Adjudicator can only deal with a complaint about the Law Society's handling of a complaint against a solicitor and cannot investigate at first hand a complaint about a solicitor. These powers are set out in Statutory Instrument S.I. No. 406 of 1997. Regulation 7 therein states

“In administering the Scheme, the Adjudicator shall (subject to Regulation 9) be empowered:

- (a) to receive and to examine or investigate any complaint in writing made to him by or on behalf of a client of a solicitor against the Society, concerning the handling by the Society of a related complaint about that solicitor made to the Society by or on behalf of that client”.

LSRA remit:

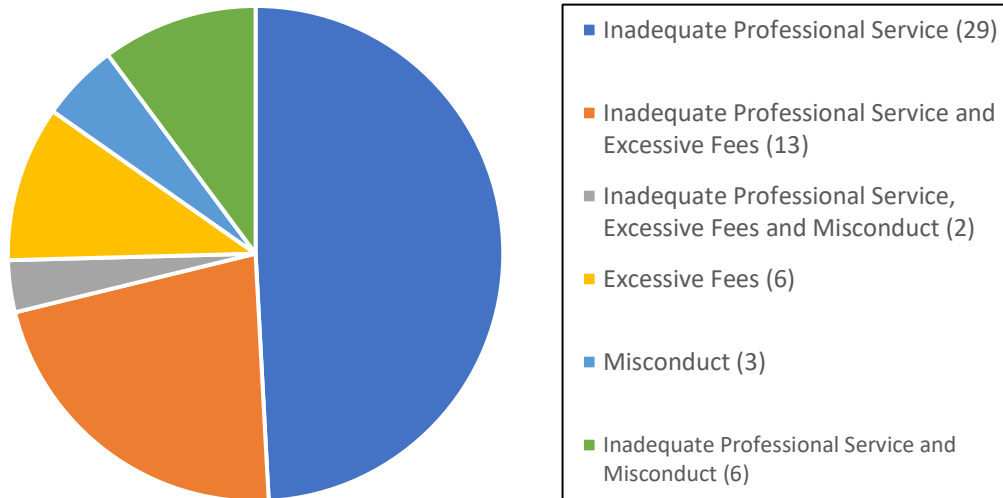
From 7 October 2019, complaints about a solicitor, or enquiries about making a complaint, should be referred to the Legal Services Regulatory Authority (LSRA). The Independent Adjudicator is permitted to examine complaints that were received by the Law Society prior to this date only. This part of her adjudicative service is therefore in a phasing out period.

Complaints adjudicated from 1 October 2019 to 30 September 2020:

- 59 complaints were adjudicated this year (94 last year)
- 11 requests from the Ombudsman for adjudicator complaint files / adjudicator notes (6 last year)
- 6 matters were referred to the Independent Adjudicator that were ineligible to be examined
- The reasons were
 - the issues settled (2 matters)
 - matter was referred to Solicitors Disciplinary Tribunal (2 matters)
 - matter had been to LSRA (1 matter)
 - out of remit (1 matter)
- Under Section 10(a) of the Solicitors (Adjudicator) Regulations, 1997 the Independent Adjudicator requested the Law Society to re-consider one of the 59 files.
- The Independent Adjudicator initiated correspondence with the Law Society on 7 of the 59 matters examined during the adjudicative year. The reasons for these letters were:
 - no right to comment was afforded and the file was closed yet it did not accurately reflect the solicitor's letter to the Law Society
 - attention to detail
 - the file sent to the Independent Adjudicator when a draft file not had not been approved by the solicitor, so technically she believed the file remained open
 - the matter was not closed with the solicitor that had been closed with the complainant
 - the matter was ongoing a long time / delay.
- The Independent Adjudicator observed at 3 Complaints and Client Relations Committee meetings during the year, one by zoom.

See diagrams on the next page setting out visually breakdown of adjudicated complaints

Breakdown on the grounds of complaints which were referred to the Independent Adjudicator from 1 October 2019 to 30 September 2020



Inadequate Professional Service (29)

Inadequate Professional Service and Excessive Fees (13)

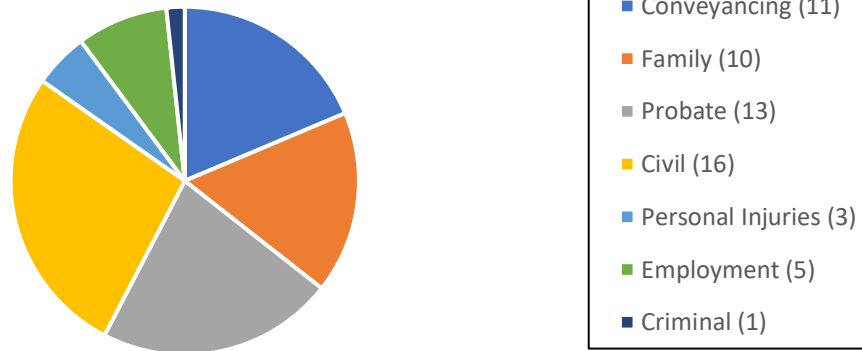
Inadequate Professional Service, Excessive Fees and Misconduct (2)

Excessive Fees (6)

Misconduct (3)

Inadequate Professional Service and Misconduct (6)

Breakdown on complaint matters which were referred to the Independent Adjudicator



Conveyancing (11)

Family (10)

Probate (13)

Civil (16)

Personal injuries (3)

Employment (5)

Criminal (1)

Case studies

Matter 1: Family – Inadequate Professional Services

This matter related to a family matter that was before the courts. The Law Society investigated a complaint relating to alleged inadequate professional services that concluded with a draft report which was sent to the solicitor for comment before being sent to the complainant. The complainant referred the matter to the Independent Adjudicator who examined the file to realise that the draft report was not approved by the solicitor. She asked the Law Society to do so, as technically she believed the file was not closed until the file report was sent to the complainant. It duly wrote to the solicitor on a number of occasions before she replied that she was satisfied with the report, and then the Law Society disseminated same to the complainant. The Independent Adjudicator subsequently completed her review.

Matter 2: Civil - Inadequate Professional Services and Misconduct

This complaint was opened as one of inadequate professional service alleging delay in the prosecution of a civil action. This file garnered considerable correspondence and was closed by the Law Society. Having examined the file, the Independent Adjudicator believed the matter should not have concluded and the matter needed to be decided by the Complaints and Client Relations Committee as the Law Society had intended to do in earlier course. She was of the opinion that there was an impasse on this matter between the complainant and solicitor and unless there was some movement by both parties it could be that the matter would remain at a stale mate from the Law Society's investigation perspective. The Independent Adjudicator thought that whilst she deemed there were some delays in keeping the complainant apprised on actions from her letter by the Law Society to its decision, she noted the considerable work done on this matter. She also noted that the complainant did not reference dissatisfaction about any perceived delay by the Law Society. The Committee decided that the chronological record of the steps taken by the solicitor on the file did not disclose undue delay which would be sufficient to warrant a finding of inadequate professional services. This met the Independent Adjudicator's satisfaction.

Matter 3: Civil – Excessive fees and Inadequate Professional Services

The solicitor was instructed in relation to the sale of her former family home and the transfer of property from her ex-husband to her. The Independent Adjudicator deemed the handling of the file to not have been of a high standard citing four reasons and also the delay in progressing the file. She wrote to the Law Society accordingly. She appreciated that the investigation of this matter was around the period of transfer of staff to the LSRA and the Law Society's investigating solicitor resourcing was challenged and that prior to the referral, the deficiencies in the investigation had been addressed by the Society.

Matter 4: Personal injuries and Employment – Excessive fees and Inadequate Professional Services

This matter related to the complainant's employment and injuries. The Independent Adjudicator, upon examining the file, deemed the Law Society's handling could have been to a higher standard and posed a number of matters that she believed could have been handled better. As in the matter above referenced, the Independent Adjudicator appreciated that the investigation of this matter was around the period of transfer of staff to the LSRA and the Law Society's investigating solicitor resourcing was challenged.

Comments on matter referrals to the Independent Adjudicator:

- there were a couple of highly contentious matters this year.
- one complainant wanted the Independent Adjudicator to copy the Law Society's file to him before she examined its contents.

- one complainant sought inappropriate information of the Independent Adjudicator before she would refer her matter for adjudication. When the complainant was not supplied with such information she made a freedom of information request of the Independent Adjudicator, which does not apply to her office, and even if it did the Independent Adjudicator had no file data to share.
- in one matter the Law Society omitted to give a complainant the right to refer his matter to the Independent Adjudicator, however the complainant applied himself in early course once the matter was closed by the Law Society.

Commentary on adjudicative year:

This adjudicative year witnessed considerable change and turbulence for the Complaints and Client Relations Section of the Law Society. Some staff transferred to the LSRA and ongoing files continued to be handled and investigated to as best a timeline as was possible. The Independent Adjudicator would further like to commend how the Section adjusted to the pandemic with remote working, managing investigations and committee meetings remotely, etc.

The Independent Adjudicator expresses appreciation for the handling of her file requests upon requisition, and the attention to her correspondence, in an effective and efficient manner throughout the adjudicative year.



Carol Ann Casey
Independent Adjudicator of the Law Society

9th December 2020