



Legal Practitioners

Conduct Board

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THE ROLE OF THE LEGAL PRACTITIONERS CONDUCT BOARD WHEN LEGAL ACTION HAS COMMENCED

What is the role of the Board?

- The Legal Practitioners Conduct Board receives and investigates complaints of unsatisfactory or unprofessional conduct by lawyers. It can also investigate allegations of overcharging by lawyers.
- The Board is independent of the Law Society and does not take sides. If the Board is satisfied that there is evidence of unprofessional or unsatisfactory conduct, it can decide to either take action against the lawyer (if the misconduct is relatively minor) or refer the matter on to the Legal Practitioners Disciplinary Tribunal.
- In relation to complaints about overcharging, the Board can **recommend** that the lawyer make a reduction in fees or give a refund to the client. It **cannot order** the lawyer to do these things.

What if legal proceedings have commenced?

- Either before or after lodging a complaint, a lawyer or client may take legal action against the other. For example, a lawyer may sue a client for an unpaid bill, or a former client may claim or counter claim damages for professional negligence. The same matters that are the subject of a complaint to the Board can also be the subject of court action - for example, issues relating to conflict of interest or the release of files.
- In these situations, the Board will generally defer its own investigation until the outcome of the court action is known.
- If court action has been commenced either by the lawyer or the complainant, both parties will need to seek their own independent legal advice. The Board cannot provide legal advice.

Why will the Board defer its investigation?

The Board recognises that its practice of waiting for the findings of a court or tribunal before investigating a complaint further, may be a cause of frustration to some complainants and lawyers. However, the Board cannot take over the role of the court or tribunal which is already looking into a matter.

What happens when the court action is over?

The result of the court action, or a settlement reached in the court action, may resolve the complaint. If it does not, the Board will continue its investigation to determine whether there is any evidence of unprofessional or unsatisfactory conduct.

Conciliation

- For some complaints, even if court action has commenced, the Board may consider arranging a conciliation conference to try to resolve the complaint informally. Participation in conciliation is voluntary for both the lawyer and the complainant.
- Conciliation is a process where both parties have the chance to tell their story and say what they think should happen next. The conciliator will help the complainant and the lawyer talk to each other and will help parties think of options about how to resolve the problem.

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March 2009



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Information Sheets on other topics are available from the Board.