



THE LAW SOCIETY OF THE NORTHWEST TERRITORIES

"Ensuring the public is well served by a legal profession that is independent, responsible and responsive."

THE COMPLAINT PROCESS

Established in 1978, the Law Society of the Northwest Territories is a self-governing Society which derives its authority from the *Legal Profession Act of the Northwest Territories*. The Law Society is responsible for governing the legal profession in the public interest according to Northwest Territories law and the Law Societies rules, regulations, guidelines and Code of Professional Conduct. It is our responsibility to ensure that the people of the Northwest Territories are served by lawyers who meet high standards of competence, learning and professional conduct; and, to uphold the independence, integrity and honour of the legal profession.

One of our duties under this mandate is the investigation of complaints regarding the conduct of lawyers practising in the Territory. This process addresses a wide variety of concerns, but it should be noted that the Law Society **DOES NOT** have jurisdiction to:

- a) deal with fee disputes between you and your lawyer. You will be advised of the taxation process through the Courts.
- b) obtain compensation from your lawyer as a result of a financial loss you have suffered. You will be advised of the civil process available to you under those circumstances.
- c) give legal advice or provide you with a lawyer.

If the Law Society does have jurisdiction, we will require that you provide the details of your complaint in writing to the Chair of the Discipline Committee, utilizing the available Complaint Form.

Once completed and signed by the complainant, this form, with all documents relevant to the complaint attached, will be used to assist the Discipline Committee in dealing effectively and efficiently with the matter complained of.

On receipt of a signed complaint in the proper form, the Chair of the Discipline Committee will review the complaint to ensure it is within the jurisdiction of the Law Society. If it is, the Chair will:

- d) forward a copy of the complaint to the member or student-at-law being complained of;
- e) provide the complainant and the member being complained of with the relevant sections of the Legal Profession Act and the Rules of the Law Society of the Northwest Territories; and
- f) request a written response from the member or the student-at-law being complained of within a specified period of time. Failure to reply to a request from the Chair of the Discipline Committee within a reasonable period of time may constitute conduct deserving of discipline.

At the same time, the Discipline Committee Chair will ascertain whether or not to conduct an investigation personally, or assign the matter to a member of the Discipline Committee. The Discipline Committee is made up of lawyers authorized to practice law in the Northwest Territories who must

- g) be a member in good standing;
- h) not have been found guilty of conduct deserving of discipline within five years prior to an appointment to the Discipline Committee; and
- i) be a member engaged in the practice of law for a minimum of three years in the Territories, where the member is a resident, or for a minimum of five years, where the member is a non-resident.

Once the lawyer's response is received, it will be evaluated by the investigator. If appropriate and necessary, a copy of the response will be forwarded to the complainant for further comments. After the necessary material has been obtained and considered, one of the following courses of action will be directed by the Chair:

- j) That the complaint be dismissed for lack of evidence of unprofessional or unbecoming conduct; or
- k) That the Member being complained of appear before such member or members as may be designated by the Chair, where the Chair is of the opinion that the matter does not constitute professional misconduct or conduct unbecoming a barrister and solicitor but does call for advice and direction in respect of conduct which may not be in the interest of the public or the profession; or
- l) That the complaint be the subject of an inquiry before a Sole Inquirer or a Committee of Inquiry.

In those cases where the Chairperson is of the opinion that the matter should be inquired into further, and

- m) the matter would not likely result, if the member were to be found guilty of professional misconduct or conduct unbecoming a barrister and solicitor before a Committee of Inquiry, in order that
- n) the name of the member be struck from the Roll,
- o) the member be suspended, or
- p) the member pay to the Society a fine in an amount exceeding \$2,000, and
- q) the public interest does not require that the matter be inquired into by a Committee of Inquiry;

a Sole Inquirer will be appointed to hear the case, much in the same way a Judge hears a matter before the Court. At this point, the Law Society will retain the services of a lawyer to prosecute the member and the complainant becomes a witness in the proceedings. In any other case, a Committee of Inquiry will be established to conduct an inquiry and its members appointed from among the members of the Discipline Committee.

These hearings are open to the public and therefore the matters before the Inquiry are not confidential. If you have any concerns about the subsequent use of your materials, please contact the Law Society to determine whether privilege or confidentiality requirements may apply.

In advance of the hearing, a Notice will be posted as per Law Society policy. Once the hearing has been concluded and a decision reached, all persons with a legitimate interest in the matter will be advised.

All complaints made to the Law Society are taken seriously and every attempt is made to deal with them in a fair and expeditious manner. If you have further questions with respect to this process, please contact the Law Society at the numbers provided below.

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