

LAW SOCIETY OF UPPER CANADA

Resolution and the Complaints Process

Resolution and the Complaints Process

The Numbers

- 2007 statistics
 - we received 5,800 complaints
 - 4,000 were within our mandate
- 2008 statistics
 - we received 5,200+ complaints to end of October
 - 3,400 were within our mandate
- complaints are mainly service-related

Resolution and the Complaints Process

The Approach

- “Resolution” describes an approach to addressing a regulatory issue without a formal discipline prosecution or finding of professional misconduct
- Hybrid process where resolution efforts take place in the context of a complaint and investigation
- Opportunities for resolution at each stage in the process

Resolution and the Complaints Process

Complaints Services

- First point of contact for Complainants
- Staff determine if complaint is within mandate
 - If outside mandate, file is closed
 - Fees
 - negligence
 - If within mandate, file is transferred to Intake Department (Professional Regulation Division)
- Resolve certain types of complaints (financial institution reports, financial obligation, courtesy of a reply)

Resolution and the Complaints Process

Intake Department

- Gatekeeper for PRD
- What happens at Intake?
 - ✓ Initial risk assessment done
 - ✓ Additional documents obtained from Complainant
 - ✓ Regulatory issues determined
 - ✓ Instructions to Investigate drafted
 - ✓ File transferred to Investigations or Complaints Resolution

Resolution and the Complaints Process

Intake Department (cont.)

Early Resolution Unit

- Handles complaints that are minor in nature and don't require a lengthy investigation
 - File release issues
 - Fail to respond to communications
 - Fail to provide an account
 - Fail to fulfill an undertaking (discharge of mortgage)

Resolution and the Complaints Process

Complaints Resolution Department

- Staff investigate less serious breaches of the *Rules of Professional Conduct*
- Staff may try to resolve complaint or will seek authorization for disciplinary proceedings
- Staff may conclude the complaint in a remedial manner
 - Provide a letter of caution
 - Provide guidance on best practices
- Resolution with a remedial outcome is considered a voluntary compromise between LSUC and the licensee

Resolution and the Complaints Process

Investigations Department

- Staff conduct extensive investigations
- Staff may attend at office to examine files, books and records, interview staff, etc.
- What is dealt with in Investigations?
 - More serious regulatory issues
 - Complaints that require audit expertise
 - Complaints about mortgage fraud

Resolution and the Complaints Process

Proceedings Authorization Committee (PAC)

- Comprised of 4 lawyer benchers and 1 paralegal bencher
- Reviews complaints referred by staff
- Can take several actions including:
 - Directing the file be closed
 - Authorizing an alternative resolution
 - Letter of Advice
 - Invitation to Attend
 - Regulatory Meeting
 - Undertaking
 - Authorizing a prosecution

Resolution and the Complaints Process

Summary Hearings

- An expedited process before 1 bencher
- Suspension may be imposed
- For lawyers or paralegals who:
 - ✓ Fail to respond to the Law Society
 - ✓ Fail to co-operate with the Law Society
 - ✓ Fail to maintain financial records

Resolution and the Complaints Process

Complaints Resolution Commissioner

- An independent overseer
- If Complainant is dissatisfied when staff close file, Complainant can request a review
- The Commissioner can:
 - Close the file
 - Refer back and recommend further action
 - Try to resolve the complaint

