

THE BAR *of*
NORTHERN
IRELAND



The Complaints Process

How to Complain

The Bar of Northern Ireland aims to provide the highest standards of service. However, there may be occasions when you feel it necessary to make a complaint about a barrister.

You can raise a complaint about:

- **The professional service provided to you by your barrister** - This involves complaints about the quality of service you directly received from a barrister who had been instructed to act on your behalf. Our process aims to resolve all eligible complaints that are presented to it. But where, despite the co-operation of all involved, resolution is not possible, an independent Committee can consider, based on the evidence, whether to award a wide range of findings.
- **The professional conduct of a barrister** - This involves complaints about the behaviour of a barrister and whether they acted in breach of the rules and duties that are placed upon them. Our process will investigate all eligible complaints to determine if a breach appears to have taken place. Where this is the case, depending on the gravity of the issue, an independent Committee can consider applying a wide range of sanctions on the barrister.

On some occasions a complaint might involve both service and conduct issues. These are referred to as hybrid complaints.

Examples of a Service Complaint:

- Work not being performed to the scope and standard that had been agreed and which was therefore proven to be incomplete, inaccurate or erroneous.
- Significant delay in meeting an agreed deadline for work to be performed where no reasonable grounds or explanation was provided for the work taking longer than expected.
- Failure to attend court or a meeting without giving notice, making suitable alternative arrangements or providing an adequate explanation.
- Poor and inadequate information - where you should reasonably have expected to receive important information but it was not provided on time or to the required standard.

Examples of a Conduct Complaint:

- Acting without honesty or integrity
- Suspected dishonesty
- A breach of confidentiality
- Bullying or harassing behaviour
- Breaches of matters described in the Bar's Code of Conduct

If you are unsure of the type of complaint you have, you can consult our more **detailed guidance** or **contact us** for more information. Provided that a complaint meets the **eligibility criteria**, you can submit a complaint using the relevant **Complaint Form**. **Detailed Guidance** is available to guide you through the next steps in the process.



Guidance:

Making A Service Complaint About the Professional Service Provided to You by your Barrister

Service complaints are about the quality of the service you feel you have received from a barrister who has been **instructed on your behalf**.

Some Examples of Service Complaints include:

- Work not being performed to the scope and standard that had been agreed and which was therefore proven to be incomplete, inaccurate or erroneous.
- Significant delay in meeting an agreed deadline for work to be performed where no reasonable grounds or explanation was provided for the work taking longer than expected.
- Failure to attend court or a meeting without giving notice, making suitable alternative arrangements or providing an adequate explanation.
- Poor and inadequate information – where you should reasonably have expected to receive important information but it was not provided on time or to the required standard.

The Service Complaint procedure exists to try to **resolve** eligible complaints and therefore you will be asked from the outset to supply your reasonable suggestion as to how **resolution** can be achieved.

1 Who Can Make A Service Complaint:

A complaint of this type can only be brought by the individual or person who received the services to which the complaint relates. They may have received these services either directly from the barrister in question or via a specific solicitor who procured the services on their behalf.

In order to make this kind of complaint you (the complainant) must:

- Be an individual who must be identified and provided a full name, address, contact details and a signature; or
- Be a person (other than an individual) or body of a description prescribed by order made by the Department of Finance & Personnel in accordance with a recommendation made under Section 16 of the Legal Complaints and Regulation Act (Northern Ireland) 2016.

2 Who Your Complaint Must Relate To:

You can make a Service Complaint about a barrister if they provided the services you wish to complain about to you either directly or via a specific solicitor who instructed the barrister on your behalf.

Service complaints cannot be made about a barrister who was not instructed to represent you.

We also do not accept service complaints against solicitors, members of the judiciary, police, social workers or the Court Service or about a barrister who does/did not represent you, e.g. the barrister acting for the other party in your case.

3 When Your Complaint Must Be Made:

All complaints must be received within six months of the matter complained of or where you are complaining about a continuing issue, the last date when it occurred.

If a complaint is made after the period prescribed the relevant committee will have a discretion to consider the complaint if it is satisfied, from the information contained in the complaint form that there were valid exceptional circumstances for the delay. Exceptional Circumstances might include:

- Medical conditions or Serious Illness
- Unforeseen circumstances

4 How You Must submit Your Complaint

Your complaint must be submitted in the relevant form and, amongst the information that must be provided, the form must clearly identify:

- the barrister who the complaint is against
- the solicitor who engaged the services of the barrister
- the service that the barrister provided to you

When submitting your form you must also provide a full name, address, contact details and a signature.

5 The Service Complaints Process

Once a completed complaints form is received, the Complaints Officer will check that it meets the eligibility criteria.

Eligible complaints will be passed to the Service Complaints Resolution Committee (the 'SCRC').

This Committee aims to resolve eligible complaints. You will therefore be asked to describe your reasonable suggestion as to how a resolution to your complaint can be achieved.

Whether or not your complaint meets the criteria, the Complaints Officer will write to you to keep you informed and if necessary, request more information or explain the reasons why a complaint cannot be accepted by the SCRC.

We may feel that your complaint either relates exclusively to a conduct issue or has elements of a conduct complaint rather than relating exclusively to the service provided by a barrister. If that is the case we will write to explain why and how your complaint will now progress. Some complaints are treated as hybrid complaints and are investigated by both Complaints Committees. More information on Hybrid Complaints can be found by [clicking here / below](#).

6 How We Will Try to Resolve a Complaint

An eligible complaint made in a completed proforma will be discussed by the SCRC. The SCRC is made up of one lay member and two practising barristers.

The Chair of the SCRC will nominate one of its members to have designated responsibility for making the necessary enquiries to obtain a resolution.

Enquiries will normally include writing to the barrister being complained about and asking them to respond and provide any relevant information or documentation.

In deciding any recommendations for a resolution the SCRC will take into account:

- the resolution you are seeking
- any comments or views expressed by the barrister in relation to the resolution sought
- whether the SCRC considers the resolution sought to be reasonable and appropriate
- whether a mediation process would be an appropriate means of resolution. If this is the case the SCRC will facilitate a timely mediation process taking place

In order to achieve a resolution both you and the barrister will be required to cooperate with the process. If for any reason you do not cooperate with the requests of the SCRC, the committee will be entitled to determine the complaint using the information available to it. If the barrister being complained about does not cooperate with the Committee, this will become a conduct issue and the barrister will be referred to the Bar's Professional Conduct Committee.

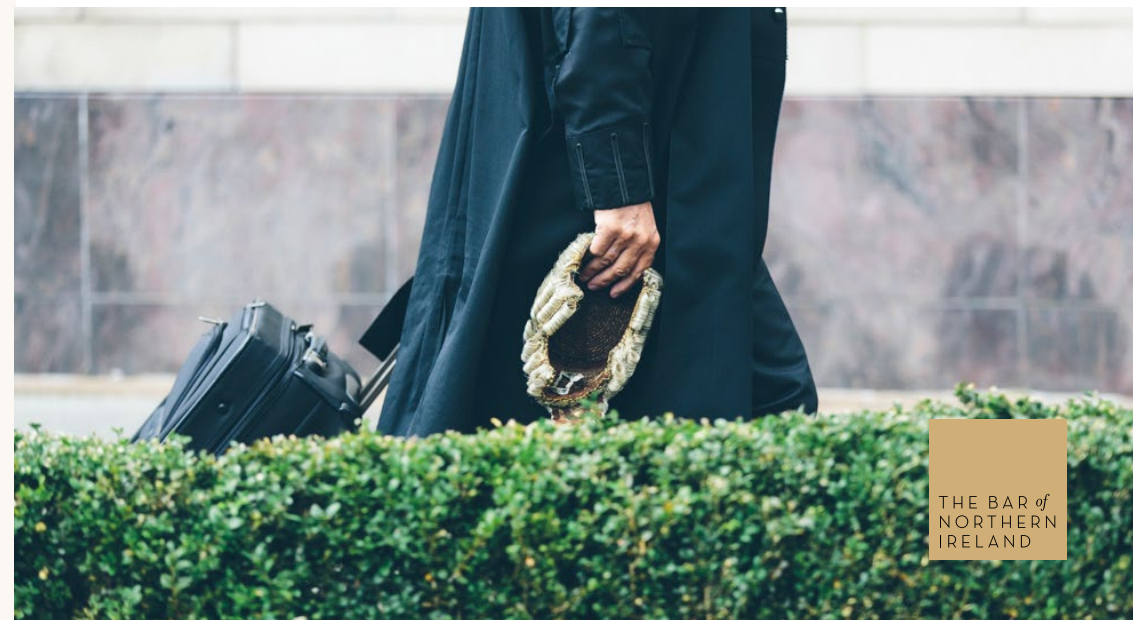
Timeframe

The SCRC Procedure will be progressed as quickly as possible and we would anticipate that recommendations or arrangements for resolution could be achieved within 8-12 weeks of the receipt of the complaint being received.

If for any reason a report on your complaint cannot be concluded in that timeframe, we will write to you and set out a realistic alternative timeframe.

Once the Committee has reached a conclusion, we will write to you and keep you informed. If no resolution has been achieved and/or you are dissatisfied with the Committee's conclusion, you are entitled to refer your complaint to the **Bar Complaints Committee**, an independent statutory committee established under the Legal Complaints and Regulation Act (Northern Ireland) 2016 to investigate, consider and determine service complaints about barristers.

If you have any questions about this process, you can contact the **Complaints Officer**.



The Bar Complaints Committee

Note: this guidance note is provided to assist you in understanding the jurisdiction and procedures of the Bar Complaints Committee. You should nevertheless be aware that the Committee's Rules of Procedure is the only authoritative document and you are advised to have regard to those Rules if you are considering making a complaint to the Committee.

The Bar Complaints Committee ('the Committee') is an independent statutory committee established under the Legal Complaints and Regulation Act (Northern Ireland) 2016 to investigate, consider and determine service complaints about barristers. In order to make a complaint to the Committee, you must normally have first used the procedures of the Bar's Service Complaints Resolution Committee to have your service complaint resolved, and you are strongly encouraged to take this course. The Committee does have a discretion, in exceptional circumstances, and upon application, to accept a service complaint for investigation, consideration and determination even though the Bar's procedures have not first been used. You would, however, have to persuade the Committee that there was some reason why it was not reasonably practicable for you to have first used the Bar's procedure, or that there were features of your complaint of particular gravity, which rendered it inappropriate to first use the Bar's procedures.

This Committee has a wide range of statutory powers which allow it to make a determination, after investigation, containing one or more of the following:

- a direction that the barrister make an apology,
- a direction limiting the fee charged by the barrister to you for specific services,
- a direction that the barrister pay compensation up to a specified limit of £5000 in respect of any loss, inconvenience or distress which has been caused to the you as a result of any matter, other than negligence, connected with the complaint;
- a direction that the barrister secure the rectification, at the barrister's expense of any error, omission or other deficiency arising in connection with the matter in question,
- a direction requiring the barrister to take steps for the completion of the matter in question within a reasonable time.

A complainant who chooses to bring a complaint before the Committee remains entitled to separately pursue civil remedies through the courts to seek damages for matters such as professional negligence.

1 Who can submit a complaint to the Bar Complaints Committee:

A complaint of this type can only be brought by the individual or person who received the services to which the complaint relates. They may have received these services either directly from the barrister in question or via a specific solicitor who procured the services on their behalf.

In order to make this kind of complaint you (the complainant) must:

- be an individual who must be identified and provided a full name, address, contact details and a signature; or
- be a person (other than an individual) or body of a description prescribed by order made by the Department of Finance & Personnel in accordance with a recommendation made under Section 16 of the Legal Complaints and Regulation Act (Northern Ireland) 2016.
- have made your complaint to the Service Complaints Resolution Committee and cooperated with that procedure until that Committee reached its conclusion.

2 When your complaint must be made:

All complaints must normally be received within six months from the date of the alleged act or omission complained of or (if later) within four weeks from the date of notification by the Service Resolution Complaints Committee (the 'SCRC') that it has reached a conclusion and notified you of your right to make your complaint to the Committee.

If a complaint is made after this period the Committee has a discretion to consider the complaint if it is satisfied, from the information contained in the complaint form that

- (a) the complaint had been received by the Committee within three years from the date of the alleged act or omission complained of; **and**
- (b) it was not reasonably practicable for the complaint to be made within the prescribed period and that the time could be extended without prejudice to the barrister; or
- (c) that it was just and equitable in the circumstances to do so, having regard to the gravity of the complaint.

Relevant circumstances could include, for example, a medical condition or serious ill-health, or an exceptionally serious complaint. There is no guarantee that an out of time complaint will be accepted for investigation. Accordingly you are strongly advised, if at all possible, to bring your complaint to the Committee within the normal time limit.

3 How You Must submit Your Complaint

Your complaint must be submitted in the relevant form and, amongst the information that must be provided, the form must clearly identify:

- the barrister who the complaint is against
- the solicitor who engaged the services of the barrister
- the service that the barrister provided to you

When submitting your form you must also provide a full name, address, contact details and a signature. You will receive confirmation of receipt of your complaints form.

An administrative fee of £35 is applied to complaints to the Committee unless you have been granted Legal Aid in respect of the proceedings from which your complaint arose. This fee will be refunded if your complaint is upheld.

4 The Committee's Complaints Process

An eligible complaint made in a completed proforma will be considered by the Committee as soon as reasonably practicable. The Committee may dismiss all or part of the complaint if it considers it to be one or more of the following:

- without merit,
- vexatious or frivolous,
- better dealt with by arbitration or by legal proceedings,
- there has been undue delay in the making of the complaint or part of the complaint, or in the provision of evidence to support it,
- the Committee is satisfied that the matter of the complaint has previously been dealt with by the Committee or by legal proceedings,
- the Committee considers that there are other compelling reasons why it is inappropriate for the complaint or part of the complaint to be dealt with by the Committee.

5 How the Committee will a complaint

Where a complaint is accepted, a Complaints Panel will be set up to investigate, consider and determine the complaint.

If it is considered appropriate, the Committee may also refer the complaint to the Professional Conduct Committee, the Law Society (if it considers that the complaint relates to the conduct of a solicitor), or if the barrister is an employed barrister, to their employer.

A Complaints Hearing will be arranged once the Panel has investigated the evidence. Detailed information on these proceedings will be provided to you at the appropriate time.

6 Right of Appeal

An appeal against the decision of the BCC can be made to the High Court.
[to be completed in due course once Regulations have been made]

Guidance: Making A Conduct Complaint About the Professional Conduct of a Barrister

Conduct complaints are about the professional conduct of a barrister who may or may not have been instructed on your behalf. Conduct complaints must relate to a breach of a section of the Code of Conduct which governs barristers.

Barristers must abide by the Code of Conduct of the Bar of Northern Ireland which details the standards of professional conduct, practice and service required by barristers. You can view the Code of Conduct [here](#).

Some examples of Conduct Complaints include:

- Acting without honesty or integrity - failing to disclose a personal interest for example
- Suspected dishonesty
- A breach of confidentiality
- Bullying or harassing behaviour
- Breaches of matters described in the Bar's Code of Conduct

The Conduct Complaints procedure aims to establish the facts and details of a complaint and ensure that proportionate sanctions are applied to barristers where appropriate.

Eligibility to Make a Conduct Complaint

1 What Your Status Must Be:

Any complaint alleging misconduct by a barrister including any alleged breach of the Code of Conduct may be made to the Professional Conduct Committee (the 'PCC').

Eligible conduct complaints are received by the Complaints Officer and investigated by the PCC.

In order to make this kind of complaint you (the complainant) must:

- Be an individual who must be identified and provided a full name, address, contact details and a signature and,

Your complaint form must clearly identify:

- the barrister who the complaint is against.

2 When Your Complaint Must Be Made:

All complaints must be received within six months of the matter complained of or where you are complaining about a continuing issue, the last date when it occurred.

If a complaint is made after the period prescribed the relevant committee will have a discretion to consider the complaint if it is satisfied, from the information contained in the complaint form that there were valid exceptional circumstances for the delay. Exceptional Circumstances might include:

- Medical conditions or Serious Illness
- Unforeseen circumstances

3 How You Must submit Your Complaint

Your complaint must be submitted in the relevant form and, amongst the information that must be provided, the form must clearly identify:

- the barrister who the complaint is against
- the solicitor who engaged the services of the barrister
- the particulars of the complaint and the alleged misconduct

When submitting your form you must also provide a full name, address, contact details and a signature.

4 The Professional Conduct Complaints Process

Once a completed complaints form is received, the Complaints Officer will check that it meets the eligibility criteria.

Eligible complaints will be passed to the Professional Conduct Committee (the 'PCC').

Whether or not your complaint meets the criteria, the Complaints Officer will write to you to keep you informed and if necessary, request more information or explain the reasons why a complaint cannot be accepted by the PCC.

We may feel that your complaint either relates exclusively to a service issue or has elements of a service complaint rather than relating exclusively to the conduct of a barrister. If that is the case we will write to explain why and how your complaint will now progress. Some complaints are treated as hybrid complaints and are investigated by both Complaints Committees. More information on Hybrid Complaints can be found by clicking [here](#) / below.

5 How we Will Investigate a Complaint

An eligible complaint made in a completed proforma will be discussed by the PCC. This Committee is made up of practising barristers and 2 lay members and is supported by the Secretary to the PCC.

The purpose of the investigation will be to establish the facts in relation to the complaint and to provide a report on the complaint to the PCC.

The Chair of the PCC will nominate one of its members, other than a lay member, to have designated responsibility for making the necessary enquiries and compiling a report for the Committee. Enquiries will normally include writing to the barrister being complained about or any other relevant person and asking them to respond and provide any relevant information or documentation.

The nominated member will not make any recommendation in the report and will not vote on the action to be taken on foot of the report.

Once an investigation is concluded and the report has been considered by the PCC, it will make a decision on whether or not a breach of the Code of Conduct appears to have taken place and can then do one or more of the following:

- dismiss the matter
- order an apology by the barrister
- reprimand the barrister;
- issue a warning to the barrister about their future conduct, behaviour and/or the management and control of their practice;
- order the barrister to undertake specific training (Continued Professional Development, 'CPD')
- issue informal advice to the barrister about their conduct
- where appropriate, explore the possibility of mediation.

Depending on the seriousness of the offence, if proven, the Committee may take the decision to progress matters to a Summary Panel or a Disciplinary Panel where a range of other sanctions are available.

Once the Committee has reached a conclusion, we will write to you and keep you informed. If you are dissatisfied with the Committee's conclusion, and you have cooperated fully with its investigation, you will be entitled to request a review by the PCC.

If you have any questions about this process, you can contact the Complaints Officer.

Hybrid Complaints, Both Service and Conduct

Where, in the opinion of the Complaints Officer, a service complaint appears to raise issues in relation to the barrister's conduct or that a conduct complaint should properly be categorised as a service complaint the Complaints Officer will take the following steps:

- In the case of a conduct only complaint: refer the complaint immediately to the Professional Conduct Committee of the Bar Council to deal with the complaint in accordance with the PCC Conduct Rules,
- In the case of a complaint involving both service and conduct issues, refer the complaint immediately to the PCC to deal with any apparent conduct issues in accordance with the PCC Conduct Rules and in parallel refer the complaint to the SCRC to deal with the service aspects of the complaint in accordance with their procedure.

The PCC will consult, co-operate and liaise with the SCRC, through the Complaints Officer, and keep the SCRC regularly updated in relation to the progress of its consideration of the conduct aspect of the complaint.

The Complaints Officer will ensure that the complainant and the barrister are informed of any reference to the SCRC and/or the PCC and are kept informed of the progress of the SCRC and PCC procedures.





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