

THE SOCIETY OF WILL WRITERS
COMPLAINTS PROCEDURES

1. Introduction

- 1.1 In this document 'the Society', 'Society' and 'member' shall have the same meanings as attributed in The Society of Will Writers Code of Practice.
- 1.2 The primary objective of these procedures is to enable the Society to deal effectively with complaints arising from breaches of the Code of Practice by members.
- 1.3 Breaches include but are not limited to instances where members have failed to maintain the high standards of professionalism, quality of work and ethics that is required within the profession and by the Society to ensure consumer confidence in the provision of Will writing and other associated services is maintained.
- 1.4 The Society expects its members to embrace and adhere to the notion of "treating customers fairly". A member who does not treat customers fairly will be in breach of the Code of Practice.
- 1.5 In affirming compliance with the Code of Practice each member of the Society affirms that he will be bound by the Society's disciplinary procedures in the event of a breach of Code provisions.
- 1.6 Complaints take time, which costs money, to resolve. The Society has a responsibility to be fair to the member being investigated as well as dealing with the complainant's concerns. The time taken can be disproportionate and involve senior personnel including the Society's Director General, Membership Board and Professional Standards Board.
- 1.7 It is true that many complaints can generally be resolved by the member without any need to involve the Society. Once the Society becomes involved, many hours can be spent on resolving complaints caused by a few members, and not on otherwise productive activities for the benefit all members.
- 1.8 When a complaint is first brought to the attention of the Society the member who is the subject of the complaint will be notified and given 7 working days to resolve the matter to the satisfaction of the complainant. Should the member fail to resolve the matter within this time the complaint will be passed to the Society's Professional Standards Board and the member will be required to pay a non-refundable Investigation Charge of £150.00 (£250.00 where either a Lasting Power of Attorney, Trust, or Estate Administration is involved) to the Society for each recorded complaint. The Professional Standards Board has an absolute discretion to waive the Investigation Charge if in their sole opinion the circumstances merit.
- 1.9 The Society has since its inception handled complaints to the satisfaction of many of its members and the public alike. It is imperative that this standard of satisfaction is maintained, and the following procedures will ensure that objective is achieved.
- 1.10 The purpose of this document is to place the Society's complaints procedure on record for the benefit of members.

2. What is a Complaint?

- 2.1 The Society defines a complaint against a member as: 'any expression of dissatisfaction, whether oral or written, and whether justified or not, from or on behalf of an eligible complainant about the member's provision of, or failure to provide, will writing services'.
- 2.2 The bottom line is that if a customer expresses dissatisfaction verbally or in writing then the member needs to put things right.
- 2.3 If the member can do this by the end of the next business day, the member – and his customers – has everything to gain.
- 2.4 Resolving complaints by the end of the next business day – the benefits:
- a happier customer, leading to improved customer loyalty
 - offers the member the chance to examine and put right weaknesses in their in-house services early on, reducing future similar complaints
 - reduces the need to embark on any follow up correspondence requirements under the Society complaints rules
 - no need to report complaints resolved within one business day to the Society – reducing administration
- 2.5 'Putting things right' could be simple as:
- carrying out a simple fact check into what happened
 - verbal acknowledgment of poor service and an apology (and, if relevant providing clear details of the actions to be taken)
 - verbal feedback offering clarification if it appears that the customer may have misunderstood
 - verbal confirmation that action has been taken to correct an error
 - confirmation by the member of what has been done to prevent the error from happening again

3. Receiving and Monitoring the Complaint

- 3.1 The Society will not investigate a complaint whether made by a member of the public or any other party unless it is in writing.
- 3.2 On receipt of the complaint the Society will require the member to produce evidence confirming that the member's own complaint procedures have been fully exhausted together with full reasons why the complaint has not been successfully resolved.
- 3.3 The complaint will be acknowledged, and the complainant will be advised that a copy of his complaint will be supplied to the Member complained against, as will copies of any further evidence supplied by the complainant.
- 3.4 The Society will advise the member that a complaint has been received and invite the member's response.

- 3.5 The complainant consumer must exhaust the complaints procedures of the relevant member and/or their company before the Society may investigate the complaint fully. If the member's procedures have been exhausted the consumer must receive a Society Complaints Form and complete this in full. The member must receive a copy of this.
- 3.6 Upon receipt of the copy Complaints Form, the member must arrange for the consumer to confirm in writing that the complaint has been withdrawn or resolved by the end of business 7 working days.
- 3.7 If within 7 working days this confirmation has not been received, the Society investigation commences automatically as per the conditions set out in 1.8.
- 3.8 The Investigation Charge is non-refundable except where the Professional Standards Board in the exercise of their absolute discretion are satisfied that there is either no evidence of the member being at fault or it is proved that the complaint has been made mischievously or maliciously. In which case the Investigation Charge will be refunded partly or in full to the member. In all other cases the Investigation Charge will be held by the Society for its general purposes.
- 3.9 The Society may require of the member or the complainant such evidence as it considers necessary to investigate the complaint and same shall be supplied to the Society within 14 days of the request.
- 3.10 In order to investigate complaints fairly time is of the essence. Unless any extension(s) to the time(s) laid down by these procedures is agreed in writing with the Society; should either the member or the complainant fail to adhere to the set timescales, or the member fails to pay the Investigation Charge as required, the Professional Standards Board may determine the complaint as they see fit.
- 3.11 All correspondence sent to a member shall be sent to his last known address as advised to the Society

4. The Handling of the Complaint:

- 4.1 In the first instance the complaint shall be determined by the Society's Complaints Administrator.
- 4.2 The Society's Complaints Administrator must exonerate the member if the member is found not to be in breach of the Society's Code of Practice.
- 4.3 If the Society's Complaints Administrator finds that the member is in breach of the Society's Code of Practice, they shall pass the complaint immediately to the Professional Standards board who will keep the Society fully advised of the progress of individual complaints.
- 4.4 If the nature of the complaint requires the intervention of the Professional Standards Board to investigate, the Society's Complaints Administrator should send the file to the Professional Standards Board for action. For all other complaints Society staff will liaise with the member to negotiate an appropriate fair outcome to the complaint for the benefit of the consumer.

- 4.5 A letter advising the member of the Society's formal complaint decision and the time period for compliance, must be sent to the member using "Signed For" delivery. Receipt must be confirmed using "track and trace" facility.
- 4.6 Following a decision that there has been a breach of the Code of Practice by the member, the member may appeal against the decision at the discretion of the Professional Standards Board and such appeal shall be heard before a Society Disciplinary Hearing held for that purpose; see below.
- 4.7 In cases where it is found that there has been no breach of the Code of Practice by the member, the decision will be passed to the complainant who has the right to appeal the decision to the Professional Standards Board.
- 4.8 A member may also be directed to attend a Society Disciplinary Hearing as ordered by the Professional Standards Board at their discretion following their decision.

5. Where Mediation is Requested

- 5.1 Where a client makes a valid complaint, about a member, which has been referred to the Society's complaints process the complainant may choose that the complaint be settled by the use of mediation and the complainant may refer the complaint to the Society's mediation service. The complainant's decision to use the Society's mediation service cannot be prevented by the member or the Society as the use of mediation by the complainant to settle the dispute does not require approval of either the member or the Society. The complainant does not need to appoint a legal representative in order to apply to the Society mediation service.
- 5.2 The parties to the mediation must agree on the appointment of the mediator. Should the parties fail to agree within 14 days, either party, upon giving written notice, may apply to appoint an alternative mediator from the list of mediators provided by the Society's mediation service.
- 5.3 Because the Society's mediation service relies on the services of the mediator who is independent of the Society, the service attracts a cost. The full cost of the mediation is to be borne by the member concerned.
- 5.4 In all cases the member is required to meet in full the following non-exhaustive list of costs:
- The mediator's full costs including travel costs and any meeting room costs
 - VAT
- Financial awards are not included in this list. The complainant is required to meet his own incidental costs.
- 5.5 The complainant may for whatever reason request an alternative mediator to take the place of the Society's mediator. The cost of any mediation performed by that alternative mediator must be borne by the member but only up to the limit prescribed by the small claims court service for dealing with the matter. Any additional cost is to be borne by the complainant.

- 5.6 The decision of the mediator is binding on the member, but is not binding on the complainant and the complainant's legal rights are unaffected by using the Society mediation service; if the complainant wishes he may still pursue his claim through the courts.

6. Failure of a Member to Implement a Decision of the Society

- 6.1 Failure to implement a decision after the full investigation procedure (and if appropriate, after any appropriate appeal has been exhausted) has recommended a specific course of action is a highly serious matter which could invalidate the membership agreement between the member and the Society. As such the following procedure must be followed in such circumstances.
- 6.2 If i) the member fails to provide written evidence that the Society complaint decision has been fully implemented and ii) the consumer has not provided written confirmation that the complaint has been satisfied, both within the prescribed time period, the Society member is automatically deemed to have terminated his Society membership. The member is immediately suspended for a period of 21 working days subject to the discretion of the Professional Standards Board which period must be used by the member to reconsider his approach to the consumer's complaint and to give the member a final opportunity to settle the complaint. Settlement is to be confirmed by the consumer providing written evidence to Society that the complaint has been withdrawn.
- 6.3 As permitted by section 4.7 above, the member may appeal the formal Society complaint decision within the 21 working days period. If the member's appeal is unsuccessful the following provision shall apply.
- 6.4 If the consumer does not provide the required confirmation that the complaint is withdrawn within the strict period of 21 working days, the member's suspension (subject to the discretion of the Professional Standards Board) is made final and the member is formally expelled from the Society by order of the Director General.
- 6.5 If during the period of 21 working days the member agrees to implement the Society's formal complaint decision to the satisfaction of the complainant consumer, the member may apply to the Director General for reinstatement of membership. Reinstatement is at the sole discretion of the Director General and may carry conditions dependent upon the nature of the complaint and the content of the Society's formal decision.

What Does Suspension Mean for My Business?

If you have been notified by the Professional Standards Board that your membership of The Society of Will Writers is under suspension you will receive a copy of this memorandum and the letter from the Professional Standards Board informing you of your suspension.

The letter will tell you the terms of your suspension, which will include:

- the reason for the suspension
- the length of the suspension
- any action that you are required to take before your membership can be reviewed for reinstatement and
- the date when the Society is willing to review your suspension

The act of suspending membership is a severe sanction of a member's actions. Only expulsion from the Society is more severe. Suspension will only happen when the member has failed to meet his membership obligations, usually the failure to resolve a complaint brought by a consumer or a third party on behalf of a consumer.

The effect on your business:

While you are suspended you may not claim either verbally or in writing, that you are a member of the Society nor can you attend or participate in any of the Society's events and activities including Conference, Courses and Regional Meetings. The Society operates a roll of all its members and during your suspension any reference to your membership is removed. If any of your customers or consumers make inquiries to the Society about you or your business, they will be advised of your suspension.

During the period of your suspension you must continue paying your subscription on the basis that once the Professional Standards Board is satisfied that you have properly dealt with the reasons for your suspension and after the term of suspension has expired, it should be possible to reinstate your membership.

When your membership is suspended the Society complaint procedures will have been exhausted and your actions will have been examined by the Society's Disciplinary Hearing. The order suspending your membership signed by the Professional Standards Board is attached to this notice. Your suspension does not affect the legal rights or any person involved in your case and you remain obliged as required to take part in any legally valid process to examine the matter further.

If you believe, prior to the end of the term of your suspension, that you have met all the requirements of the suspension order you may apply to the Professional Standards Board for the suspension order to be revoked. The Professional Standards Board may review your request using their absolute discretion and if the facts permit restore your membership.

If the details of your suspension are unclear to you, you must first check with the Society before taking any action that could be a breach of your suspension order, as failure to do so could result in further disciplinary action being taken against you. Details of the suspension order will remain on your Society file.

Have you provided your client with the following?

In order for the formation of a valid contract a number of requirements must be in place (offer, acceptance and consideration).

Also you must take account of and adhere to all relevant and specific legislation (required by The Society of Will Writers Code of Practice) and provide consumers with all of the information detailed in Section 4 of the Code of Practice. If you have not fulfilled your obligations under Section 4 fully you may find a complaint by a consumer is upheld when investigated by SWW Complaints Administration.

In particular, have you provided the consumer (your client) with the following?

- A copy of their agreed instructions, which they have confirmed by reading and signing?
- Written confirmation of the consumer's instructions together with details of the service that you have recommended and contracted to complete, sent to the consumer by the member within 5 working days of the instruction meeting?
- A copy of your Terms and Conditions or Business?
- A copy of their cancellation rights?
- Information about document storage?

For the avoidance of doubt, please note that in the event of a valid complaint made against a member by a consumer, an SWW Complaints Administration investigation will always assess whether the member has complied in full with the requirements of Section 4 of the Code of Practice.