

# Current Issues

## HOW THE LPCC IS PROGRESSING

It has now been over 2 years since we introduced the Rapid Resolution Team (RRT) and restructured the office. Many of you will recall that the impetus for the restructure was the concern that, by and large, all complaints were being handled in the same manner, whether they raised serious conduct issues or minor concerns such as service-related issues.

The operations of RRT have been refined continually since its inception. As its work and operational style has become better known, the profession has become very supportive of its work, which has led to many conciliated outcomes. These outcomes have benefited both practitioners and complainants. In the 2011-12 financial year, RRT dealt with over 1,500 inquiries and complaints raising minor conduct issues. The aim of the RRT is to deal with these inquiries/complaints in under 2 months, although many are dealt with within a few days (sometimes hours) of receipt.

With RRT handling the majority of the inquiries/complaints received by the LPCC, the investigation team has been steadily working through the backlog which it encountered as a result of the restructure. At the present time, the number of complaints more than 2 years old which are still under investigation is over 80% less than what it was as at 31 December 2010. At the same time as reducing this backlog, the investigation team has been concentrating on dealing with new complaints, which raise more serious conduct issues, in a timely manner. The aim of the investigation team is to finalise complaints within 1 year. Some complaints will be finalised in well under that time, but some of its more complex investigations may take longer than 1 year.

The support of the profession during the LPCC's restructure has been greatly appreciated. It has also been very rewarding to receive positive feedback from the profession about the RRT.

## LIMITED RETAINERS AND CLIENT COMMUNICATION

The Committee reminds practitioners of the importance of effective client communication where a practice's retainer is limited, or is subject to some precondition, such as the payment of funds into trust.

For example, it is common practice for a practitioner to provide a prospective client with a costs agreement at, or immediately after, the first appointment with the client and to then refrain from any substantive work on the client's matter until the costs agreement is signed and returned and/or an agreed amount is paid into the practitioner's trust account.

This example will be immediately familiar to most solicitors, but there may be other situations when a retainer is limited either by the scope of the client's instructions or pending further payments into trust (including payments in anticipation of counsel's fees or filing fees).

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Any limitation on a practitioner's representation of a client, including a precondition such as the return of a signed costs agreement or the payment of funds into trust, must be explained to the client at the earliest possible opportunity so that the client understands what must be done for the matter to proceed. The practitioner should ensure the client is advised of all such limitations in writing and the client should be followed up if the precondition has not been fulfilled or further instructions are not forthcoming.

Where a client does not respond within a reasonable period of time, by either providing the practitioner with instructions or by fulfilling the precondition, the practitioner should take reasonable steps to ensure the client is informed that, unless further instructions are received or the precondition fulfilled, the practitioner will not act further. What is a reasonable period of time and what are reasonable steps will differ according to the circumstances.

Failing to advise a client of limitations affecting a retainer or to follow up a client from whom some response is required may amount to unsatisfactory professional conduct.

**Have you had an experience with the LPCC? Share your thoughts with Brief by emailing [communicationsofficer@lawsocietywa.asn.au](mailto:communicationsofficer@lawsocietywa.asn.au)**



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