LEGAL COMPLAINTS REVIEW OFFICER
ĀPIHA AROTAKE AMUAMU Ā-TURE

[2020] NZLCR 66
Ref: LCRO 094/2019

CONCERNING	an application for review pursuant to section 193 of the Lawyers and Conveyancers Act 2006
AND	
CONCERNING	a determination of the [Area] Standards Committee [X]
BETWEEN	**EL** Applicant
AND	**UD** Respondent

DECISION

The names and identifying details of the parties in this decision have been changed.

Introduction

[1] Mr EL has applied for a review of a decision by the [Area] Standards Committee [X] to take no further action in respect of his complaint concerning the conduct of the respondent, Mr UD.

Background

[2] On 18 December 2013, Mr UD provided advice to the [City A] Council ("[YXC]") concerning a proposal to close a building [location] for public use.

[3] The YXC had received advice that the Centre required strengthening in order to ensure that the Centre would be sufficiently robust to survive a seismic event.

[4] Mr UD's correspondence of 18 December 2013:

(a) recorded that he agreed with recommendations in a report prepared by the [Company A]; and

(b) noted that he did not agree with a recommendation to carry out interim repair work to the building once closed; and

(c) referred the Council to its obligations under various Acts; and

(d) confirmed that he had read an engineer's report prepared by [Company B] together with supplementary reports; and

(e) recommended that the Council's decision making should proceed on the basis of the initial recommendations;

(f) reinforced the need for the Council to exercise caution when the safety of the public was at potential risk; and

(g) noted that he did not rule out the possibility of interim work being carried out on the building; and

(h) advised that he would need to have further discussions with various parties.

[5] [YXC] closed the building to carry out repairs.

The complaint and the Standards Committee decision

[6] Mr EL lodged a complaint with the New Zealand Law Society Complaints Service (NZLS) on 25 March 2019.

[7] At the commencement of his complaint, Mr EL explained that a group of people possessing what he described as extensive construction industry experience had "dedicated much of the last five and a half years" in attempting to extract from the [YXC], what Mr EL described as "two basic factors".

[8] These were:

(a) An acknowledgement from the [YXC] that its decision to close [location] had been significantly influenced by Mr UD's advice.

(b) Release of correspondence from a [City B] based legal firm, [law firm].

[9] Mr EL made complaint that:

(a) the Council's decision to act on Mr UD's advice had resulted in considerable financial loss to the [City A] community; and

(b) Mr UD had failed to alert the Council to a judgement issued by the [City B] High Court in October 2013 which had significant relevance for the Council's task of determining relevant and appropriate standards for building safety; and

(c) proof of negligence was established by errors that had been identified in the information considered by the Council; and

(d) Mr UD had failed to observe that the introduction to the [Company B] report clearly identified the report as being in draft form; and

(e) the Building Act took precedence over the Health and Safety Act; and

(f) Mr UD's advice reflected a gross error of judgement.

[10] In concluding his complaint, Mr EL opined that "the eventual cost to ratepayers for all the negligence, collusion, corruption and fraud that surrounds the issue relative to the ratepayer base was very significant".

[11] Mr UD was invited to provide a response to the complaint but elected not to do so.

[12] The Standards Committee tasked with completing investigation into Mr EL's complaints, identified the issues to be considered as:

(a) whether Mr UD had failed to advise the Council of the October 2013 Court decision; and

(b) whether any disciplinary issues arose as a consequence of the Council's refusal to release the correspondence from [law firm]; and

(c) whether Mr UD had failed to recognise that an engineering report had been identified as being in draft form; and

(d) whether Mr UD had failed to advise [YXC] that the Health and Safety at Work Act did not take precedence over the Building Act.

[13] The Standards Committee delivered its decision on 20 June 2019.

[14] The Committee determined, pursuant to s 138(2) of the Lawyers and Conveyancers Act 2006 (the Act) that no further action on the complaint was necessary or appropriate.

[15] In reaching that decision the Committee concluded that:

(a) It was not satisfied that Mr UD's advice to [YXC] was negligent or gave rise to a breach of any rule or duty owed by Mr UD.

(b) Whilst the Committee had focused its inquiry on four issues, it had considered all the material provided by Mr EL.

Application for review

[16] Mr EL filed an application for review on 11 July 2019. The outcome sought is for there to be a "recognition of gross negligence".

[17] Mr EL provided a paragraph by paragraph analysis of the Committee decision.

[18] To the extent that he, in that analysis, identifies areas where he contends the Committee had erred, he submits that:

(a) The decision indicated a bias towards Mr UD.

(b) Interim draft reports prepared for the Council had proven to be seriously deficient.

(c) Peer review of those reports had also concluded that advice provided to the Council had been negligent.

(d) The Committee had failed to identify pertinent points in the information provided.

(e) [YXC] should have recognised that more research needed to be undertaken, before the decision was taken to close [location].

[19] Mr UD was invited to comment on Mr EL's review application. He elected not to do so.

Review on the papers

[20] This review has been undertaken on the papers pursuant to s 206(2) of the Act, which allows a Legal Complaints Review Officer (LCRO) to conduct the review on

the basis of all information available if the LCRO considers that the review can be adequately determined in the absence of the parties.

[21] The parties have agreed to the review being dealt with on the papers

[22] I record that having carefully read the complaint, the response to the complaint, the Committee's decision and the submissions filed in support of and in opposition to the application for review, there are no additional issues or questions in my mind that necessitate any further submission from either party. On the basis of the information available I have concluded that the review can be adequately determined in the absence of the parties.

Nature and scope of review

[23] The nature and scope of a review have been discussed by the High Court, which said of the process of review under the Act:[1]

> … the power of review conferred upon Review Officers is not appropriately equated with a general appeal. The obligations and powers of the Review Officer as described in the Act create a very particular statutory process.
>
> The Review Officer has broad powers to conduct his or her own investigations including the power to exercise for that purpose all the powers of a Standards Committee or an investigator and seek and receive evidence. These powers extend to "any review" …
>
> … the power of review is much broader than an appeal. It gives the Review Officer discretion as to the approach to be taken on any particular review as to the extent of the investigations necessary to conduct that review, and therefore clearly contemplates the Review Officer reaching his or her own view on the evidence before her. Nevertheless, as the Guidelines properly recognise, where the review is of the exercise of a discretion, it is appropriate for the Review Officer to exercise some particular caution before substituting his or her own judgment without good reason.

[24] More recently, the High Court has described a review by this Office in the following way:[2]

> A review by the LCRO is neither a judicial review nor an appeal. Those seeking a review of a Committee determination are entitled to a review based on the LCRO's own opinion rather than on deference to the view of the Committee. A review by the LCRO is informal, inquisitorial and robust. It involves the LCRO coming to his or her own view of the fairness of the substance and process of a Committee's determination.

[1] *Deliu v Hong* [2012] NZHC 158, [2012] NZAR 209 at [39]-[41].
[2] *Deliu v Connell* [2016] NZHC 361, [2016] NZAR 475 at [2].

[25] Given those directions, the approach on this review, based on my own view of the fairness of the substance and process of the Committee's determination, has been to:

(a) Consider all of the available material afresh, including the Committee's decision; and

(b) Provide an independent opinion based on those materials.

Discussion

[26] Having had opportunity to peruse the extensive information filed by Mr EL in support of his application, I have no doubt that he and his supporters hold a genuine belief that the decision of the [YXC] to close [location] was a mistake which had adverse consequences for members of the [City A] community.

[27] It is clear that Mr EL retains an absolute conviction that both the engineering assessments and legal analysis that informed and underpinned the Council's decision to close the centre was flawed.

[28] Whilst it will become clear that I agree with the Committee's decision to take no further action on Mr EL's complaints, I arrive at similar conclusion to the Committee by following a different path.

[29] The Committee's approach to its investigation was to undertake a step by step analysis of what it had identified as the four key components of Mr EL's complaint.

[30] In my view, the first question to be considered, is the issue as to whether the concerns Mr EL raises are matters that properly fall to be addressed through the lawyers' disciplinary processes.

[31] Having given careful consideration to all of the information provided by Mr EL, I am strongly persuaded that Mr EL's conduct complaint is, in essence, more a complaint about the decision-making of the [City A] Council, than it is a properly directed professional conduct complaint against Mr UD.

[32] The appropriate avenue for challenging a decision made by a local council is not, in my view, by utilising the vehicle of the Lawyers Complaints process to challenge the validity of legal advice that had been provided to the Council through the process of advancing a conduct complaint against the lawyer who had drafted the advice.

[33] Whilst it is the case that any person may bring a complaint against a lawyer,[3] it is fundamental that a person advancing complaint that a lawyer has failed to provide competent advice or has provided negligent advice, must have a sufficient degree of proximity to the matter of which complaint is made, to ensure that the complaint is able to be properly articulated by reference to all the information which may have relevance to circumstances in which the lawyer provided the advice.

[34] Mr EL was not Mr UD's client.

[35] Mr UD's client was the [City A] Council. It was to the Council that Mr UD was answerable. There is no evidence that the Council took issue with the advice it had received from Mr UD.

[36] There are two significant problems with the complaint advanced by Mr EL.

[37] Firstly, his complaint demands acquiescence to an acceptance of his argument that the advice Mr UD provided to the Council was fundamentally flawed.

[38] He argues that the Council's reliance on this defective advice resulted in decisions being taken to close [location] that were both inconvenient and immensely costly to the [City A] ratepayers.

[39] In advancing this argument, Mr EL is inviting a Review Officer to affirm a view he had reached as to the competency of various engineering advice the Council had received. Mr EL is emphatic that any opinion formed as to the adequacy of the advice relied on by the Council, must inevitably be in lockstep with his and his supporters' views.

[40] It presents as so obvious as to approach the trite to emphasise that a Review Officer is not equipped nor qualified, to make assessments as to whether engineering advice provided to a Council presented as properly informed advice that could safely be relied on.

[41] Mr EL asserts that Mr UD's advice to the Council that it be guided in its decision making by recommendations made in various engineering reports, was unreliable.

[42] Further, and this shifts the argument to a more legally focused perspective, he contends that Mr UD misrepresented to the Council the extent to which one statute prevailed over another, and neglected to alert the Council to a recently issued High

[3] Lawyers and Conveyancers Act 2006, s 132(1).

Court decision that would, if the Council had been properly informed as to the relevance of the decision to the building safety issues under consideration by the Council, have materially influenced the Councils' decision.

[43] Mr EL made complaint that Mr UD had neglected to advise the Council that the Health and Safety Act did not take precedence over the Building Act.

[44] I assume that Mr EL is arguing that there is legal authority for the proposition that in circumstances where there may be tension between those Acts, the Building Act must prevail.

[45] No legal authority is provided by Mr EL to support this proposition and that is not surprising. Informed legal analysis as to whether the provisions of one statute may prevail over the provisions of another, can only be properly undertaken by a consideration of the broader context of each case, and with reference to legal principles that may have application to the facts of the particular case.

[46] Nor does Mr EL's complaint that Mr UD neglected to advise the Council of a particular case, establish sufficient evidence of any professional lapse on Mr UD's part. It is by no means certain that answers to the complex issue as to whether the Council could confidently continue to operate a public building in circumstances where concerns had been raised as to whether the building met adequate standards for public safety, could be unequivocally resolved by reference to the authority of a single High Court case.

[47] The body of case law that has emerged following the [City B] earthquakes, gives graphic indication of the legal complexities and difficulties that can be encountered when attempts to establish a clear legal pathway through the myriad of building and health and safety legislation, buttresses up against the problems of interpreting that legislation in ways that achieve consistency with engineering demands. It is commonplace for there to be competing interpretations as to the level of building reinforcement required in order to achieve compliance with regulations determining specifications for earthquake strengthening.

[48] The evidence advanced by Mr EL, falls considerably short of establishing that Mr UD neglected to provide competent advice.

[49] The second significant obstacle faced by Mr EL, is that, whilst he is critical of the advice tendered, he has limited understanding of the range of factors that informed the advice provided, and no knowledge of what additional, modifying amending or alternative advice Mr UD may have given the Council.

[50] I return to the point that Mr EL was not Mr UD's client. His understanding of the advice that Mr UD provided, is limited to the conclusions drawn from his reading of Mr UD's correspondence of 18 December 2013.

[51] It is compellingly clear from that correspondence, that Mr UD's assessment of the situation faced by the Council as at 18 December 2013 is informed not just by matters specifically referenced by Mr EL but is the product of his consultation with a number of parties. Mr UD gives clear indication that there is follow up work that has to be done.

[52] The advice given by Mr UD (as reflected in his correspondence of 18 December 2013), is elevated by Mr EL to a level of significance that suggests that the Council's decision to close the centre was not just significantly influenced by Mr UD's recommendations, but instrumental in the decision made.

[53] That narrowly focused analysis neglects to give sufficient consideration to the fact that the decision to close the centre was a decision collectively made by members of the Council who would likely have been making decisions by reference to the broad spectrum of information available to them, not just, as Mr EL would have it, in reliance on the opinion provided by Mr UD.

[54] Mr EL is critical of the Standards Committee for failing to identify what he describes as "many pertinent points" and the comprehensive information he had filed in support of his complaint.

[55] I have given careful consideration to information in the extensive file Mr EL has provided.

[56] That information includes:

(a) Copies of correspondence with the Ombudsman's Office.

(b) Correspondence with the Associate Minister for Local Government.

(c) Records of Council meetings.

(d) Copies of correspondence with the office of the Auditor-General.

(e) Copies of engineering reports.

[57] But the significant component of Mr EL's file, comprises the extensive correspondence between himself and various members of the [YXC] (including the mayor) and other individuals who had become involved in what clearly became a

contentious and long-running dispute in the [City A] community, following the Council's decision to close the Centre.

[58] As time advanced, the parties appear to have become increasingly entrenched in their positions, and the disagreement increasingly acrimonious.

[59] Whilst Mr EL is critical of the role he understands Mr UD to have played in influencing the Council's decision to close the centre, his broader target is what he perceives to be a culture of deception and misinformation that had contaminated local government.

[60] Mr EL had made strenuous efforts to have the Council release a copy of correspondence it had received from the [City B] legal firm [law firm].

[61] In correspondence to the Chief Ombudsman in which Mr EL was seeking to have that Office reconsider an earlier request to compel the Council to release the correspondence, Mr EL described the correspondence sought as "a small segment of what has been a very arduous and exhausting attempt to get the many involved in the whole sorry saga of [location], including [YXC]'s legal advisor, UD, to accept their negligence".[4]

[62] In an extensive raft of documents and correspondence, assembled under the title "[Document]", Mr EL refers to the "bitter fight to expose the irresponsible behaviour by consultants, lawyers and councillors".

[63] Mr EL is critical of the professional engineering advice that had been provided to the Council. He complains that there were "serious flaws in the reports".

[64] In March 2014, a city councillor wrote to Mr EL advising that "your interest in the above project is noted, but I advise that this Council has a robust process in place to process information that will guide councillors in their decision-making on the future of [location]. We have the utmost faith in the process and advice to date. I respectfully request you to allow this process to take its course without further adding another layer of complexity to this process which your constant questions are creating".

[65] In June of 2014, Mr EL was suggesting that the "authors and their associates who wrote the engineering reports need to refund their ill-gotten gains, [City A] Council staff need to resign and those councillors who are responsible for persuading new councillors not to break ranks should either resign or sign a letter of apology to the ratepayers of [City A]".

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[4] Mr EL, correspondence to Chief Ombudsman (15 August 2017).

[66] In August 2014, Mr EL made complaint to the Council, that all the reports that had informed the Council's decision to close the centre had been "assumption based" and premised on the incorrect conclusion that the foundations to the centre were substandard. He made demand that those involved in the preparation of the reports "admit their negligence".

[67] By March 2016, Mr EL had formed a view that the Council's Chief Executive was unfit for the job, and that she had been endeavouring to discredit Mr EL's attempts to expose the Council's flawed processes.

[68] By April 2016, Mr EL was signalling that he suspected that the Council may have been contaminated by collusion, corruption and fraud.

[69] This serious concern was put directly to the mayor by Mr EL in correspondence of 7 September 2016, in which he alerted the mayor to "major concern regarding three prime factors – corruption, collusion and fraud – to which the local community is not immune but the situation will only be improved when perpetrators are called to account. There is no need to describe where this all ends as the likes of you, in your position, failed to respond".

[70] In October 2014, Mr EL had formed a view that what he was now describing as the "[Article]", had revealed a culture in local government that had to be exposed.

[71] Mr EL's comprehensive account of his robust and lengthy campaign to hold the Council accountable for its actions, is reflective of circumstances which occur not uncommonly in local government, when vigilant and concerned ratepayer groups form a view that their local council has mismanaged an important issue of governance and has lacked transparency when responding to criticisms of its conduct.

[72] But it is difficult to separate Mr EL's specific complaints about Mr UD, from the criticisms he makes of both the Council and the raft of professionals who had provided advice to the Council.

[73] Mr EL's complaint was lodged over five years after Mr UD had provided his opinion to the Council.

[74] The length of that delay fairly prompts question as to whether the complaint advanced by Mr EL presents as a pressing and legitimate expression of concern that a lawyer had breached their professional obligations, or whether the decision to advance the complaint forms part of the broader campaign being waged.

[75] The lengthy delay in bringing complaint against Mr UD (and it is considerable) suggests that Mr EL was not immediately focused on advancing a professional complaint against Mr UD.

[76] This returns to the point emphasised earlier in the decision. Mr EL was not Mr UD's client. It was the Council, the elected representatives of the [City A] ratepayers, that properly bore responsibility for the decision to close [location].

[77] Mr EL's decision to challenge a Council decision through the avenue of pursuing a professional conduct complaint against a lawyer who had provided advice to the Council, diverts attention in my view, from the primary focus of Mr EL's complaint, being the councillors responsible for making the decision complained of. Such an approach provides fertile ground for the professional complaint process to be utilised as a means to launch collateral attack on a council's statutory decision-making processes.

[78] This is not to suggest that advice a lawyer provides to a Council may not in some circumstances properly provide a basis for a legitimate conduct complaint to be pursued against a lawyer, but in assessing the circumstances in which such a complaint could fairly and appropriately be advanced, it is necessary to distinguish those circumstances in which the conduct complaint is advanced as a professional conduct complaint when in essence the complaint is complaint about matters which squarely fall within the responsibility of the elected council members.

[79] Whilst Mr EL is emphatic that both the engineering advice relied on by the Council, and the legal opinion provided by Mr UD were demonstrably wrong, neither of those positions are conclusively established as he suggests by the evidence he advances.

[80] A meaningful analysis of the issues Mr EL raises could only be adequately achieved in a forum where there was opportunity for competing engineering evidence to be assessed, and then measured against a full exploration of the options open to the council including a consideration of the political imperatives that may legitimately have shaped the council's decision as well as the legal framework for the decision-making.

[81] Mr EL frequently frames his criticisms of both Mr UD and the Council, as complaint that both have been negligent.

[82] The outcome sought by Mr EL on review, is that there be a "recognition of gross negligence".

[83] The submissions filed by Mr EL in support of his complaint, include a compilation of papers which he describes as "raw uncensored correspondence between the negligent and the fact finders".

[84] He argues that Council's negligence has cost the [City A] ratepayers millions of dollars.

[85] Mr EL's submissions are replete in their descriptions of both the Council's and Mr UD's conduct amounting to negligence.

[86] It is critical that neither Standards Committees nor the Review Office, when considering issues of the nature engaged by this review, do not turn the complaints/review process in to what it is not — a court of civil justice.

[87] This jurisdiction is not one vested with the civil justice jurisdiction. It does not operate as a parallel pathway to civil justice. It is primarily concerned with the maintenance of professional standards.

[88] Argument that a lawyer's oversight, omission or error has resulted in the incurring of costs (including legal costs) that would not have arisen but for the failure on the part of the lawyer, raises the possibility that the lawyer's actions may be addressed not by reference to argument of a lack of competence, but rather a consideration as to whether the lawyer's conduct amounted to negligence.

[89] The relationship between the tort of negligence and unsatisfactory conduct as defined in s 12(a) is close. In the Introduction to the chapter on negligence in *The Law of Torts* the authors state:[5]

> Negligence is a relatively straightforward and well-understood concept in lay terms. It is defined in the *Concise Oxford Dictionary* simply as a lack of proper care and attention or carelessness. This broad notion of carelessness is undoubtedly an integral part of negligence as a foundation for legal liability, but other elements are also involved. If one or more of those elements is lacking, then an action will fail, even though the defendant may have been careless, even grossly so, in a popular sense.

[90] Negligence is a cause of action that is well-understood by traditional civil courts. Its ingredients include a duty of care, a breach of that duty, and a measurable loss that has been caused by the breach of duty. Findings of negligence may only be arrived at after comprehensive — sometimes expert — evidence has been given. Issues that often arise in claims of negligence include whether a person has breached

[5] Stephen Todd (ed) *The Law of Torts in New Zealand* (online edition, Thomson Reuters) at [5.1].

their duty of care, or whether there is a connection between the alleged loss and the breach of duty. Complex arguments often arise about whether any loss has been suffered.

[91] Neither a Standards Committee nor the LCRO is equipped to make findings of negligence. The default position for a Standards Committee is to conduct their hearings on the papers. A negligence analysis is simply not possible with that process.

[92] A Standards Committee can determine that a practitioner's conduct fell short of the standard of competence and diligence that a member of the public is entitled to expect of a reasonably competent lawyer.

[93] In the course of providing regulated services to their client, a lawyer must act competently, and in a timely manner consistent with the terms of the retainer and the duty to take reasonable care.[6]

[94] A lawyer's conduct may be deemed to be unsatisfactory if, in the course of providing regulated services to their client, their conduct falls short of the standard of competence and diligence that a member of the public is entitled to expect of a reasonably competent lawyer.[7]

[95] The duty to act competently has been described as "the most fundamental of a lawyer's duties" in the absence of which "a lawyer's work might be more hindrance than help".[8]

[96] The standard of competence is an objective one. The question is whether the lawyer under scrutiny applied the care or skill that any reasonable lawyer in the same position would have done.[9]

[97] It has been noted that a lawyer "is not bound… to exercise extraordinary foresight, learning or vigilance".[10]

[98] It has been noted that lawyer competence, though pivotal to public confidence in the profession and the administration of justice, lacks any generally accepted meaning; it instead takes its flavour from the perspective of the observer.[11]

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[6] Lawyers and Conveyancers Act (Lawyers: Conduct and Client Care) Rules 2008, r 3.
[7] Lawyers and Conveyancers Act 2006, s 12(a).
[8] Duncan Webb, Kathryn Dalziel and Kerry Cook *Ethics, Professional Responsibility and the Lawyer* (3rd ed, LexisNexis, Wellington, 2016) at [11.1].
[9] At [11.3].
[10] *Jennings v Zilahi-Kiss* (1972) 2 SASR 493 (SC) at 512 cited with approval in GE Dal Pont *Lawyers' Professional Responsibility* (6th ed, Thomson Reuters, Sydney, 2017).
[11] GE Dal Pont, above n 10, at [4.24].

[99] Not surprisingly, neither the Act, nor the Lawyers and Conveyancers Act (Lawyers: Conduct and Client Care) Rules 2008 (the Rules), attempt to lay down a definitive definition of competence, a determination of which must inevitably be attempted through an examination of a variety of factors including, but not limited to, the nature of the retainer and the context in which the conduct complaint arises.

[100] It is important to recognise that an obligation to provide competent advice does not impose unreasonable burden on a practitioner to be always right, or to always provide the right advice.

[101] It has been noted that:[12]

> while there is an existing professional duty of competence in New Zealand, albeit one which is particularly narrow, there is no duty to provide a high level of service to clients. The duty of competence is, in reality, a duty not to be incompetent and is aimed at ensuring minimum standards of service.

[102] What may on first reading present as a singularly less aspirational objective for a profession than would be expected is, on closer examination, an affirmation of a reasonable standard of expectation of the level of competency required of lawyers. All lawyers are expected to provide a competent level of service to their clients.[13]

[103] A broad, and useful expression of the indicia to be considered in determining competency was attempted by the American Bar Association in a discussion document where it said:[14]

> Legal competence is measured by the extent to which an attorney (1) is specifically *knowledgeable* about the fields of law in which he or she practises, (2) performs the techniques of such practice with *skill*, (3) manages such practices *efficiently*, (4) identifies issues beyond his or her competence relevant to the matter undertaken, bringing these to the client's attention, (5) *properly* prepares and carries through the matter undertaken, and (6) is intellectually, emotionally, and physically *capable*. Legal incompetence is measured by the extent to which an attorney fails to maintain these qualities.

[104] Criticism that Mr UD failed to provide competent advice, is, as has been noted, focused on argument that he should have:

(a) Recognised that a report he had relied on had been prepared in draft form; and

(b) Failed to recognise the paramountcy of one piece of legislation over another; and

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[12] Webb, Dalziel and Cook, above n 8 at [11.3].
[13] LCRO 205/2105 referenced in paragraphs 102-103.
[14] American Bar Association and American Law Institute *Committee on Continuing Professional Education Model Peer Review System* (discussion document, 15 April 1980).

(c) Neglected to identify a decision issued by the High Court that had relevance to the issue under consideration by the Council.

[105] For the reasons discussed, I do not conclude that these matters considered either separately or collectively, provide a basis to sustain allegation that Mr UD failed to provide the Council with competent advice.

[106] Mr EL, in his introduction to the complaint filed with the Complaints Service, noted that the second "basic factor" that he had been endeavouring to achieve, was to compel the Council to release a copy of correspondence it had received from a [City B] based law firm.

[107] That is not a matter that involves Mr UD or one which could possibly raise any professional conduct issues engaging Mr UD.

[108] I see no grounds which could persuade me to depart from the Committee's decision.

Anonymised publication

[109] Pursuant to s 206(4) of the Act, I direct that this decision be published so as to be accessible to the wider profession in a form anonymising the parties and bereft of anything as might lead to their identification.

Decision

Pursuant to s 211(1)(a) of the Lawyers and Conveyancers Act 2006 the decision of the Standards Committee is confirmed.

DATED this 15th day of May 2020

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R Maidment
Legal Complaints Review Officer

In accordance with s 213 of the Lawyers and Conveyancers Act 2006 copies of this decision are to be provided to:

Mr EL as the Applicant
Mr UD as the Respondent
[Area] Standards Committee [X]
New Zealand Law Society