

**CONCERNING**

An application for review pursuant to Section 193 of the Lawyers and Conveyancers Act 2006

**AND**

**CONCERNING**

a determination of the Auckland Standards Committee 4

**BETWEEN**

**DE**  
of Auckland

Applicant

**AND**

**WX**  
of Auckland

Respondent

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

**DECISION**

[1] The Standards Committee received a complaint from Ms DE (the Applicant) against Ms WX (the Respondent). After considering the information provided, the Standards Committee decided that no further action was necessary pursuant to Section 138(2) of the Lawyers and Conveyancers Act 2006.

[2] The Applicant sought a review of that decision on the grounds that the Standards Committee had not provided reasons for its decision.

[3] The complaints were that the Respondent had charged for advice that had not been provided, and had failed to provide her with a written report. A further complaint was that the Respondent had failed to provide a letter of engagement pursuant to Rule 3.4 of the Lawyers Conduct and Client Care Rules.

[4] A review hearing was held on 8 June 2011, attended only by the Applicant. The Respondent was not required to attend and elected not to do so.

[5] The background circumstances were that the Applicant's lawyer had obtained a legal opinion from the Respondent in respect of certain matters arising from the Applicant's separation from her former husband. The advice was intended to better inform the Applicant and her lawyer about how they might best proceed on certain matters. Before taking this step the Applicant's lawyer had obtained her agreement to one hour of the Respondent's time to discuss particular issues that had been identified.

[6] The Respondent is a barrister and was contacted by the Applicant's lawyer concerning the matters on which advice was sought. The Applicant's lawyer then met with the Respondent for one hour and obtained the advice that he asked for. The Applicant's lawyer reported back to the Applicant concerning the advices received. No written report was provided by the Respondent.

[7] The Respondent had been briefed by the Applicant's lawyer and did not take instructions from the Applicant. The Respondent did not meet the Applicant. Other than the Applicant's expectations, there is no evidence that a written report was intended to be provided, the arrangement being that the Respondent and the Applicant's lawyer would meet to discuss certain issues.

[8] The undisputed evidence is that it was agreed that the Respondent would meet for an hour with the Applicant's lawyer to discuss issues raised by the lawyer, which advice was intended to assist in deciding the way forward concerning the Applicant's affairs. This was done. I can see no basis for an adverse finding against the Respondent in this matter. There was no request for a report and no agreement that a written report would be provided. It is most unlikely that a one-hour time frame would have sufficed for a report to be written.

[9] It became apparent in the course of the review hearing that the Applicant considered that the Respondent had not addressed those issues that the Applicant had understood would be addressed. However, the evidence showed that the Respondent did address those issues raised by the Applicant's lawyer.

[10] Any concern that the Applicant had about what issues the Respondent was to consider was a matter more properly raised with her lawyer rather than with the Respondent. I observed that the Applicant had also raised complaints about her own lawyer, and noted that this matter could be further pursued at the review hearing relating to that file.

[11] The further complaint concerned the Respondent's failure to have provided the Applicant with a letter of engagement. At the review hearing I discussed with the

Applicant the provisions of Rule 3.7 of the Lawyers Conduct and Client Care Rules, which exempted a lawyer from providing a letter of engagement when that lawyer (oftentimes a barrister) had been instructed by another lawyer. It appears that this rule would have applied if the Respondent had been instructed to act for the Applicant, and that there would be little basis for a complaint that the Respondent had not independently provided such information. However, the circumstances do not indicate that the Respondent acted for the Applicant in the event, since the Respondent's involvement was to provide a legal opinion to the Applicant's lawyer at his request.

[12] I am unable to see that any part of the complaint raises any disciplinary issues in respect of the Respondent. My view is that the Standards Committee was correct in deciding to take no further action on these complaints.

### **Decision**

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

**DATED** this 21<sup>st</sup> day of June 2011

---

Hanneke Bouchier

**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:

Ms DE as the Applicant  
Ms WX as the Respondent  
The Auckland Standards Committee 4  
The New Zealand Law Society