

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

IJ

Applicant

AND

KL

Respondent

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

DECISION

Introduction

[1] Mr IJ 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 Mr KL.

Background

[2] In 2013 Mr KL acted for Mr IJ on the preparation of a relationship property agreement between Mr IJ and his wife who was independently represented. The agreement was signed on 16 September 2013.

[3] A year later in September 2014 Mr KL attended to settlement of that agreement. Mr IJ's complaints about Mr KL's conduct concerning those attendances.

[4] The issues in this review are whether Mr KL settled the matter contrary to Mr IJ's instructions and authority, whether he overcharged Mr IJ, and following settlement

whether he withheld from Mr IJ copies of correspondence and information on Mr KL's fee as requested by Mr IJ.

Complaint

[5] Mr IJ lodged a complaint with the New Zealand Law Society Complaints Service on 9 December 2014. The substance of his complaint was that Mr KL:

- (a) Did not keep him informed or act in his interests.
- (b) Did not explain what fees he would charge, or his complaints procedure until 18 months after the matter commenced.

Mr IJ claims that he did not sign Mr KL's letter of engagement dated 4 May 2011 until eighteen months later, and says that he had understood that Mr KL's hourly rate would be \$200, not \$300.

He says that a few weeks before settlement Mr KL informed him that the fee "would be around \$20k" which Mr KL said "he would have to adjust [because] he was well aware that [Mr IJ] was pretty unhappy with [Mr KL's] actions" which cost him "some \$23k in the settlement process".¹

He considers that Mr KL had overcharged him for the preparation of an affidavit, including reviewing material required to prepare the affidavit.

- (c) Did not incorporate into the settlement certain adjustments he requested, a counter-claim, which he claims cost him "at least \$5,000".

He says that he did not meet with Mr KL in the lead up to settlement and states that "it must have been very clear that I was totally confused ... [and] should have been briefed as to the position ..." He thought that Mr KL "mean't partial settlement as [his] counterclaim was incomplete".²

He sought compensation for Mr KL's failure to include the adjustments in the settlement figure.

- (d) Would not provide him with copies of file correspondence until Mr IJ accepted his fee invoice.

¹ Email IJ to Complaints Service (16 December 2014).

² IJ to Lawyers Complaints Service (4 March 2015).

Mr KL's reply

[6] Mr KL responded to the complaint stating:³

- (a) He had kept Mr IJ informed, and provided him with his letter of engagement of 4 May 2011 which he says was “four months before [his] third piece of recorded correspondence on [Mr IJ's] behalf, not 18 months after the process ... started”.⁴
- (b) The relationship property agreement was due to be settled at the end of August 2014, and on 5 September he had received a letter from Mrs IJ's lawyer enquiring about the delay.
- (c) Concerning the affidavit, he agreed that “nearly 19 hours for the preparation of one affidavit would be excessive”, but stated that:⁵

this claim was for receiving and perusing Mrs IJ's application, three affidavits from her, preparing statement of defence and three affidavits in reply as well as memoranda for the Court's settlement conference.

- (d) Mr IJ “always underestimated the work done by solicitors and overestimated his own ability as an advocate”.⁶

[7] Concerning Mr IJ's allegation that his counter-claim needed to be resolved before settlement which he claimed Mr KL had “mucked up”, Mr KL referred to the binding relationship property agreement which Mr IJ had signed.⁷ In conclusion, he stated that his relationship with Mr IJ “had been most cordial”, and he had “made a reduction of \$4,400 in [his] costs to reflect this”.⁸ He made no mention of any promise to Mr IJ to keep his fees “around” \$20,000.

Standards Committee decision

[8] The Standards Committee delivered its decision on 11 April 2016.

[9] 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.

³ Letter KL to Lawyers Complaints Service (16 February 2015).

⁴ At [2].

⁵ At [6].

⁶ At [7].

⁷ At [4].

⁸ At [8].

Fees – paragraph (b)

[10] In reaching that decision the Committee adopted the findings and recommendations of the cost assessor instructed by the Committee, namely, that Mr KL's fee was "not ... unreasonable".⁹

Keep informed, settlement adjustments – paragraphs (a), (c)

[11] The Committee reviewed the exchange of communications between Mr KL and Mr IJ between 9 September 2014 and 25 September 2014 and concluded that Mr IJ had instructed and authorised Mr KL to make the settlement payment from Mr IJ's funds held in Mr KL's trust account.

[12] Whilst acknowledging that the settlement figure did not incorporate the adjustments requested by Mr IJ, the Committee stated that Mr IJ was bound by the terms of the relationship property agreement and noted that any adjustment could be dealt with separately.

[13] Despite Mr IJ's concerns about the fairness of the relationship property settlement the Committee noted that no complaint had been received from Mr IJ about Mr KL's conduct concerning the preparation of the relationship property agreement.

File correspondence

[14] The Committee did not address this issue.

Application for review

[15] Mr IJ filed an application for review on 6 May 2016. The outcome sought is that:

- (a) Mr KL's fee be reduced to under \$20,000 as promised by Mr KL; and
- Compensation be paid for his loss incurred by settlement having proceeded without incorporating the adjustments he requested beforehand.

[16] In particular he:

⁹ Costs Assessors report, 1 December 2015 at [18].

- (a) Reiterates that he did not receive Mr KL's letter of engagement dated 4 May 2011, which stated that Mr KL's hourly rate would be \$300 plus GST.
- (b) Disputes the amount of time spent by Mr KL in preparing his affidavit. He refers to the significant input from his accountant.
- (c) Repeats his criticism of Mr KL not having provided him with pre-settlement advice.
- (d) Introduces issues concerning the preparation of the relationship property agreement that were not contained in his complaint.

Mr KL's reply

[17] In response to Mr IJ's review application Mr KL states that he has nothing further to add to his reply to Mr IJ's complaint except to say that his hourly charge out rate was \$300, not \$350.¹⁰

Review on the papers

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

[19] 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

[20] The nature and scope of a review have been discussed by the High Court, which said of the process of review under the Act:¹¹

¹⁰ Letter KL to LCRO (17 June 2016).

¹¹ *Deliu v Hong* [2012] NZHC 158, [2012] NZAR 209 at [39]-[41].

... 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.

[21] More recently, the High Court has described a review by this Office in the following way:¹²

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.

[22] 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.

Issues

[23] The issues on this review are:

- (a) Whether Mr KL’s fee was fair and reasonable both to Mr IJ and to Mr KL pursuant to rules 9, 9.1 of the Lawyers and Conveyancers Act (Lawyers: Conduct and Client Care) Rules 2008 (the rules). This includes whether Mr KL provided his letter of engagement to Mr IJ at the commencement of the retainer pursuant to rules 3.4, 3.5.

¹² *Deliu v Connell* [2016] NZHC 361, [2016] NZAR 475 at [2].

- (b) Whether Mr IJ instructed and authorised Mr KL to complete settlement of the relationship property matter on 25 September 2014 for the purposes of s 110(1)(b) of the Act and reg 12(6) of the Lawyers and Conveyancers Act (Trust Account) Regulations 2008.

This includes whether Mr KL kept Mr IJ informed, and consulted him in the lead up to settlement on 25 September 2014 pursuant to rules 7, 7.1.

- (c) Whether Mr KL delayed providing Mr IJ with copies of correspondence pending acceptance by Mr IJ of Mr KL's fee pursuant to rule 7.2.

[24] The jurisdiction of this Office includes consideration of how a Standards Committee dealt with a complaint and whether its decision is soundly based on the evidence produced to the Committee. It does not extend to a consideration of any matters that have not been previously considered and decided by a Standards Committee.¹³ It follows that because Mr IJ's concerns about the preparation of the relationship property agreement were not contained in his complaint, and were therefore not considered by the Committee, this Office does not have jurisdiction to hear those matters on review.

Analysis

Fees

[25] Mr IJ seeks a reduction in Mr KL's fee to under \$20,000 which he says Mr KL promised a few weeks before settlement. The question is whether Mr KL's fee was fair and reasonable both to Mr IJ and to Mr KL.

[26] Mr KL commenced acting for Mr IJ from 18 May 2011, the date of Mr KL's first time and attendance entry. His final time and attendance entry was dated 17 September 2014. His only invoice issued was dated 25 September 2014. The fee component was \$21,000 plus GST against his total time and attendance recorded of \$25,190 plus GST at \$300 per hour.

(a) Letter of engagement

[27] Mr KL's letter of engagement dated 4 May 2011 stated that Mr KL's hourly rate was \$300 plus GST. Mr IJ disputes that he received the letter of engagement until eighteen months to two years later when he was required to swear an affidavit in the

¹³ Lawyers and Conveyancers Act 2006 s 194.

proceedings. He claims that because he did not sign the letter in May 2011, as requested by Mr KL on page two of the letter, he had not accepted its terms and therefore was not bound by them including Mr KL's hourly rate of \$300 plus GST.

[28] Mr KL states that he provided his letter of engagement to Mr IJ on 4 May 2011. I note that the letter does not specify Mr IJ's address. Mr KL does not say whether the letter was provided to Mr IJ by email, by post, or in person.

[29] From the information provided to this Office I am not able to reconcile the parties' respective positions on this point except to observe that page two of the letter also states that if Mr IJ instructed Mr KL to proceed then he would in any event be bound by its terms. Also, by signing the letter of engagement at the time his affidavit was taken Mr IJ either accepted the terms of engagement, or confirmed his earlier acceptance.

(b) *Relevant rules*

[30] Rule 9 provides that:

A lawyer must not charge a client more than a fee that is fair and reasonable for the services provided, having regard to the interests of both client and lawyer and having regard also to the factors set out in rule 9.1.

[31] Referring to the relevant authorities, the LCRO has observed that considerations to be taken into account when determining whether a fee is fair and reasonable include:¹⁴

- (a) setting a fair and reasonable fee requires a global approach;
- (b) what is a reasonable fee may differ between lawyers, but the difference should be "narrow" in most cases;
- (c) while time spent must always be taken into account it is not the only factor;
- (d) It is not appropriate to (as an invariable rule) multiply the figure representing the expense of recorded time spent on the transaction by another figure to reflect other factors.

[32] The New Zealand High Court has stated that it is:¹⁵

... the obligation, which is clear from a number of authorities, for a practitioner who is using time and attendance records to construct a bill, to take a step back and look at the fee in the round having regard to the importance of the matter to the client, in some cases the client's means, the value to the client of the amount of work done, and proportionality between the fee and the interim or final result of the legal work being carried out. It is very clear that for most of the bills this independent assessment has not been carried out.

¹⁴ *Hunstanton v Cambourne and Chester* LCRO 167/2009 at [22].

¹⁵ *Chean v Kensington Swan* HC Auckland CIV-2006-404-1047, 7 June 2006 at [23].

[33] The Court added that:¹⁶

where bills are being rendered regularly on an interim basis, it is difficult if not impossible for the client in particular and possibly for the practitioner to make the type of assessment to which I have just referred.

[34] Because the process of determining a fair and reasonable fee is “an exercise in balanced judgment - not an arithmetical calculation”.¹⁷

different people may reach different conclusions as to what sum is fair and reasonable, although all should fall within a bracket which, in the vast majority of cases, will be narrow.

[35] For that reason, the LCRO has referred to there being a “proper reluctance to ‘tinker’ with bills by adjusting them by small amounts,” and that it “is therefore appropriate for Standards Committees not to be unduly timid when considering what a fair and reasonable fee is.”¹⁸

[36] Also, that “where there is a complaint about a bill of costs there is no presumption or onus either way as to whether the fee was fair and reasonable.”¹⁹

[37] Concerning a costs assessor’s role, the LCRO has referred to the “task of the Standards Committee (with the assistance of a costs assessor if appointed)” being “to determine what is a fair and reasonable fee in the circumstances. This should be addressed first.”²⁰ Because a costs assessor is “appointed as an expert in the area it is only with the greatest caution that such a view should be departed from on review.”²¹

[38] It is only when a fair and reasonable fee has been determined “... can it be assessed whether the fee charged is sufficiently close to that amount to properly remain unchanged”.²² A particular lawyer’s approach to billing may not necessarily “... be a relevant consideration in determining whether a fee is fair and reasonable in all of the circumstances.”²³

[39] Rule 9.1 specifies “The factors to be taken into account in determining the reasonableness of a fee in respect of any service provided by a lawyer to a client include”. The thirteen factors are contained in paragraphs (a) to (m) of that rule.

¹⁶ At [24].

¹⁷ *Property and Reversionary Investment Corporation Ltd v Secretary of State for the Environment* [1975] 2 All ER 436 at 441.

¹⁸ Above n 14, at [62].

¹⁹ At [63].

²⁰ At [64].

²¹ *Lothian v Alloa* LCRO 148/2009 at [11].

²² Above n 14, at [64].

²³ At [15].

(c) *Costs assessor*

[40] The Committee delegated the task of assessing whether Mr KL's fee was fair and reasonable to a costs assessor.²⁴

(d) *Was the fee fair and reasonable?*

[41] The costs assessor stated that he had "been guided" by Chapter 9 of the rules, and had "carefully considered" rules 9 and 9.1.²⁵ In arriving at his recommendation to the Committee that Mr KL's fee was "not ... unreasonable", the approach taken by the costs assessor took into account the following factors specified in rule 9.1:

(a) *The time and labour expended*

The assessor noted that Mr KL's time and attendances were divided into correspondence amounting to \$14,170, and remaining attendances - telephone calls, documents, court appearances amounting to \$11,020.

Concerning preparation of the affidavit, although he was unable to verify the time and attendance attributed by Mr KL to that item, the assessor considered that Mr KL's allowance of \$4,400 from the total time and attendance recorded "would more than counter any excess of time on those attendances".²⁶

(b) *The skill, specialised knowledge, and responsibility required to perform the services properly*

The assessor considered that while Mr KL's hourly rate of \$300 plus GST was "at the upper level for a Christchurch sole practitioner operating a general practice in 2011 [he did] not consider it an excessive rate".²⁷

The degree of risk assumed by the lawyer in undertaking the services, including the amount of value of any property involved

²⁴ Mr [XXX], Cost Assessment, 1 December 2015.

²⁵ At [12].

²⁶ At [19].

²⁷ At [14].

The assessor noted that the relationship property assets being divided included the family residence, six investment properties and an insurance broking business.

- (c) *The complexity of the matter and the difficulty or novelty of the questions involved*

The assessor acknowledged that this was not a straight forward matter, and that there were a number of adjustments to be calculated in the final settlement which had increased as the file had progressed. He recorded that accountancy services had also been required to assist in this process.

- (d) *The experience, reputation and ability of the lawyer*

Implicitly, Mr KL's hourly rate took this factor into account.

[42] From my review of this issue I am satisfied that the costs assessor took into account the relevant considerations in his deliberations and that his recommendation was not an unreasonable conclusion to reach. In arriving at this view I take account of the assessor's statement that in determining whether Mr KL's fee was fair and reasonable he had adopted the objective "stand back" approach recommended by the courts,²⁸ and had placed reliance on his own experience as a lawyer who specialises in acting for clients on relationship property disputes.

[43] In his complaint Mr IJ claimed that Mr KL had informed him that the fee "would be around \$20k but [Mr KL] said he would have to adjust that as [Mr KL] was well aware that [Mr IJ] was pretty unhappy with his actions ...". However, the following day, Mr IJ's email to the Lawyers Complaints Service stated that "we discussed a flat fee of \$20,000 ...". In his application for review Mr IJ reverted to his first position with a variation, namely, "no more than \$20k". Mr KL has not provided any comment on this issue; neither the costs assessor nor the Committee referred to the matter.

[44] The question is whether Mr KL provided Mr IJ with an estimate or a quote. Mr IJ's complaint suggests the former, the following email to the Lawyers Complaints Service suggests a quote whereas the review application reverts to an estimate with a ceiling of \$20,000.

[45] A complaint is a formal document in the nature of a declaration. It is not unreasonable to expect a complainant to complete the complaint form accurately. I am

²⁸Above n 17; *Gallagher v Dobson* [1993] 3 NZLR 611 (HC) at 621.

inclined to prefer the description in Mr IJ's complaint, namely that Mr KL provided an estimate.

[46] For these reasons I am not persuaded to interfere with the costs assessor's recommendation the adoption of which by the Committee was also in my view reasonable.

Settlement of the relationship property matter

[47] The question on this issue is whether Mr IJ instructed and authorised Mr KL to complete settlement of the relationship property matter.

[48] Mr IJ claims that on 25 September 2014 Mr KL paid Mr IJ's settlement moneys to Mrs IJ's lawyers without taking into account the adjustments requested by Mr IJ. He states that in doing so Mr KL failed to keep Mr IJ informed and consult with him beforehand.

[49] From its consideration of the communications between Mr KL and Mr IJ between 9 September and 25 September the Committee concluded that Mr IJ had instructed and authorised Mr KL to complete settlement leaving the adjustments to be sorted out afterwards.

(a) *Relevant law*

[50] Section 110(1)(b) of the Act provides that:

- (1) A practitioner who, in the course of his or her practice, receives money for, or on behalf of, any person—
...
 - (b) must hold the money, or ensure that the money is held, exclusively for that person, to be paid to that person or as the person directs.

[51] Regulation 12(6) of the Lawyers: Trust Account Regulations 2008 provides that:²⁹

- A practice may make transfers or payments from a client's trust money only if—
...
 - (b) The practice obtains the client's instruction or authority for the transfer or payment, and retains that instruction or authority (if in writing) or a record of it; and ...

[52] With limited exceptions, a lawyer must carry out a client's instructions. A lawyer must disclose to his or her client information that is relevant to the retainer, take

²⁹ New Zealand Law Society *Lawyers Trust Accounting Guidelines*, November 2008 at [6].

reasonable steps to ensure that the client understands the nature of the retainer, keep the client informed about progress, and consult the client about steps to be taken to implement the client's instructions.³⁰

(b) *Chronology*

[53] Mrs IJ's lawyers informed Mr KL of the settlement figure they considered was required from Mr IJ pursuant to the relationship property agreement. This figure included an adjustment for Earthquake Commission (EQC) moneys received by Mr IJ.³¹

[54] As identified by the Committee, the crucial communications subsequently exchanged between Mr KL and Mr IJ were:

- (a) 9 September – in an email Mr IJ informed Mr KL that he disputed the EQC adjustment. He stated that he had a counter-claim for unpaid child support and would consult with his accountant.
- (b) 9 September – Mrs IJ's lawyers disputed Mr IJ's entitlement to any adjustments.
- (c) 11 September – Mr KL requested Mr IJ's instructions on these matters.
- (d) 17 September – Mr IJ provided both Mr KL and Mrs IJ's lawyers with details of his reasons for requesting adjustments to the settlement figure. He stated that he wished "to have this sorted asap so we don't waste court time and we can all move on".³²
- (e) 23 September – Mr IJ informed both Mr KL and Mrs IJ's lawyers that having "had a re think" he agreed "to an equal payout of the amount [Mrs IJ's lawyers] states in the letter [of 5 September] and sort rest asap".

He explained that "[I]t seems silly to hold up the payout over the job I am doing now on this late claim stuff which can be sorted ... I need a new car anyway. I am also buying a rental property up North".³³

³⁰ Lawyers and Conveyancers Act (Lawyers: Conduct and Client Care) Rules 2008 rr 7 and 7.1.

³¹ Letter [XX] Law to KL (5 September 2014).

³² Email IJ to KL, [XX] Law (17 September 2014).

³³ Email IJ to KL, [XX] Law (23 September 2014).

- (f) 23 September – Mr KL says that he telephoned Mr IJ on receipt of Mr IJ's email of 23 September and "left a message on [his] call minder to confirm that [Mr KL] could pay the funds ...".³⁴
- (g) 25 September – Mr IJ informed Mr KL that:³⁵

Confirm payment to each is fine sort rest out later, and working on it now and looks good then final settlement and you get your \$1,000. My bank account is ... no hurry.

[55] It is clear from these communications that Mr IJ knew that the options open to him were to either settle on the figure proposed by Mrs IJ's lawyers, or to resolve the disputed adjustments and incorporate them into a revised settlement figure. He acknowledged this in his email to Mr KL on 9 September when he stated at that time that he would not settle on Mrs IJ's lawyer's figures and would resolve the matter in court and seek costs if necessary.

[56] However by 17 September his stance had softened. He informed Mr KL and Mrs IJ's lawyers, that he "wished to have this sorted asap so we don't waste court time and we can all move on". Six days later on 23 September he informed Mr KL, and Mrs IJ's lawyers, that he had "had a rethink" and agreed to "an equal payout" and "sort rest asap". He confirmed this on 25 September and provided details of his bank account into which his share of the settlement proceeds were to be paid.

[57] Overall, it is my view that Mr IJ was informed of the options open to him. He both instructed and authorised Mr KL to proceed with settlement. I agree with that conclusion reached by the Committee.

Provision of correspondence and fee information

[58] Mr IJ alleges that Mr KL delayed providing him with the file correspondence until he had accepted Mr KL's fee. The Committee did not address this issue.

[59] On 15 October 2014 Mr IJ objected to settlement having taken place without incorporating the adjustments he had requested. He also queried Mr KL's fee and requested "a schedule of your fees with costs/jobs (i.e. affidavit 3 hrs at rate of etc) as have never had any fee position/updates at all".³⁶

³⁴ Email KL to IJ (28 October 2014).

³⁵ Email IJ to KL (25 September 2014).

³⁶ Email IJ to KL (15 October 2014).

[60] In reply on 5 November, Mr KL stated that “it would take hours to copy all the correspondence on the file, however, once you have accepted my account you are welcome to take copies yourself”.³⁷

[61] Mr IJ then suggested that his fees query be looked at by a third party “if agreement could not be reached”.³⁸

[62] Mr KL explained that he had reduced his fee by \$4,400 “for friendship’s sake”, and had “provided [Mr IJ] with particulars of how it was costed”. He did not describe these “particulars”. He stated that he had “neither the time nor inclination to receive or reply to any further emails from [Mr IJ] on this subject ...”.³⁹

[63] Mr KL later provided his file, including his time and attendance records, to the costs assessor.

[64] It is incumbent on a lawyer to respond in a timely way to any client’s inquiry (rule 3.2), and promptly to a client’s request for information (rule 7.2). It follows that the sensible response to such a query and request for details is for the lawyer to provide the information requested and suggest a meeting to go over the details with a view to reaching an agreement.⁴⁰ Mr IJ expressed his willingness to resolve the issue by suggesting reference of the issue to an independent party.

[65] Although Mr IJ claims that he did not receive the information, Mr KL’s response to Mr IJ’s suggestion that the query be referred to a third party included the statement that he had provided the fee details to Mr IJ.

[66] From the information provided to this Office I am not able to reconcile the parties’ different positions on this issue. However, as a general comment I observe that having received a query or fee complaint from a client not only does a lawyer owe a duty to the client to respond promptly, but also to himself or herself in an endeavour to resolve the query or the complaint as quickly as possible and so avoid putting both the client and lawyer to the time and effort required by both, should a formal complaint be laid.

³⁷ Letter KL to IJ (5 November 2014).

³⁸ Email IJ to KL (15 November 2014).

³⁹ Letter KL to IJ (17 November 2014).

⁴⁰ New Zealand Law Society “Practice Briefing: Running an effective internal complaints process”, updated March 2014.

Decision

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

DATED this 28th day of July 2017

B A Galloway
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:

IJ as the Applicant
KL as the Respondent
[Area] Standards Committee [X]
The New Zealand Law Society