

**LEGAL COMPLAINTS REVIEW OFFICER
ĀPIHA AROTAKE AMUAMU Ā-TURE**

[2020] NZLCRO 197

Ref: LCRO 29/2019

CONCERNING

an application for review pursuant to section 193 of the Lawyers and Conveyancers Act 2006

AND

CONCERNING

a determination of [Area] Standards Committee [X]

BETWEEN

HM

Applicant

AND

PL

Respondent

.

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

Introduction

[1] This is the second complaint by Ms PL about Mr HM arising out of Mr HM's conduct when acting in the estate of Ms PL's mother, and the EW Family Trust.¹

[2] Mr HM and Ms PL were executors of Mrs EW's will, and Mr HM was the surviving Trustee of the Trust.²

[3] The Committee's first decision was delivered on 3 October 2016. In that decision, the Committee determined to take no further action on the complaints raised by Ms PL.

¹ Mrs EW was Ms PL's mother

² Mrs EW had also been a Trustee of the Trust.

[4] The second decision was issued on 21 December 2018. In that decision, the Committee made two findings of unsatisfactory conduct against Mr HM pursuant to s 12(c) of the Lawyers and Conveyancers Act 2006 (the Act).³

Background

[5] Mr HM had acted for Mrs EW for some 18 years.

[6] Mrs EW died on 14 March 2015. The executors appointed by Mrs EW in her will, were Mr HM and Ms PL.

[7] Differences arose between Mr HM and Ms PL.

[8] Mr HM applied to the High Court to have Ms PL removed as an executor and for himself to be appointed sole executor.

[9] Instead, following negotiations, Mr HM agreed to renounce his executorship and for the Public Trust to be appointed in his place to act as co-executor with Ms PL.

[10] The EW Family Trust owned the house in which Mrs EW had resided. In a memorandum of wishes dated 8 April 2002, Mrs EW had expressed the wish that Ms PL be appointed as Trustee after her death.

[11] As part of the negotiated settlement, Mr HM also agreed to resign as a Trustee of the Trust. The Public Trustee was appointed in his place as co-Trustee with Ms PL.

Ms PL's complaints

[12] In its first determination, the Standards Committee reserved the right to Ms PL to make further complaints about Mr HM if any matters arose in the course of the High Court proceedings to determine the question of costs incurred in the proceedings issued by Mr HM.

[13] The judgment of the High Court was delivered on 29 November 2016. Ms PL's complaint is dated 25 January 2018 and was lodged with the Lawyers Complaints Service on 9 February 2018.

[14] Ms PL's complaints are divided into issues alleged to be new issues arising out of the High Court proceedings followed by other complaints which she says were not raised in the first complaint.

³ Section 12(c) of the Act provides that a finding of unsatisfactory conduct may follow a breach of any of the Conduct and Client Care Rules.

New conduct issues arising out of the High Court proceedings

[15] Ms PL says paragraphs [5]–[9] of the High Court judgment raises new conduct issues. She says:⁴

On the content of Mr HM’s correspondence alone, he has acted in my view egregiously in breach of Client Care Rule 3.1 by failing at all times to treat me with respect and courtesy.

The correspondence Ms PL refers to is set out in the High Court judgment.

[16] Mr HM had refused to provide Ms PL with copies of documents. Ms PL says:⁵

Mr HM’s refusal to provide me with copies of documents was also reprehensible as was his way of communicating his view of arrangements for me to obtain copies.

[17] Mr HM had advised Ms PL of his intention to lay a complaint of conversion with the Police so that, Ms PL says, he could gain control of all estate documents.⁶ Ms PL suggests this could be viewed as blackmail in terms of s 237 of the Crimes Act 1961. His Honour referred to that as ‘threatening’⁷ conduct and Ms PL considers this to be ‘disgraceful and dishonourable’.⁸

[18] Ms PL asserts that because the High Court reduced Mr HM’s fees, this was an indication his fees were excessive, thereby constituting a breach of r 9 of the Conduct and Client Care Rules.⁹

[19] In paragraph 10 of her supporting reasons for the complaint, Ms PL refers to the fact that Mr HM did not render an invoice until the High Court judgment had issued. She considers that by doing this, Mr HM avoided the requirements and obligations established by the Lawyers and Conveyancers Act and the Conduct and Client Care Rules. This allegation is repeated in paragraph 10.5 of the supporting reasons.

[20] Ms PL refers to the fact that Mr HM did not agree with proposals to resolve the issue of his costs other than continuing with the court proceedings.¹⁰ Ms PL does not indicate what provision[s] of the Act or Rules Mr HM has breached by this.

[21] Ms PL asserts Mr HM was under a duty to keep her informed about costs but failed to do so.

⁴ Ms PL, supporting reasons for the complaint at [9] [supporting reasons].

⁵ Supporting reasons at [9.4].

⁶ By failing to provide Mrs EW’s documents to Mr HM.

⁷ *HM v PL* [2016] NZHC 2850 (costs judgment) at [8].

⁸ At [9.6].

⁹ Lawyers and Conveyancers Act (Lawyers: Conduct and Client Care) Rules 2008.

¹⁰ At [10.4].

Other conduct issues

[22] Ms PL then raises other complaints which, she says, were not part of her original complaint and were not “referred to expressly or touched on in the High Court costs judgment”.¹¹

1. Mr HM declined to provide Ms PL with an estimate of costs to administer the estate.
2. Mr HM refused to advise Ms PL of costs incurred to date.
3. Ms PL considers that “Mr HM, by threatening an injunction, has again misconducted himself by seeking to pressure [her] to withdraw [her] complaint to the New Zealand Law Society concerning his conduct”.¹²
5. Mr HM failed to inform her about a memorandum of wishes.
6. Mr HM made an unfounded allegation that she had lied to him when she had advised him that Mrs EW’s house was not occupied.
7. “In the same reckless, disparaging, and unbecoming way, Mr HM accused me in the proceedings of refusing to give him the address of the mother of the other (minor) residuary beneficiary (my niece JG) of the family Trust whereas in fact [she] had provided that information at [her] first meeting with Mr HM, and a file note to that effect was on his file reduced [sic] on discovery.”¹³
8. Mr HM “failed to undertake even the elementary steps of preliminary estate administration¹⁴” which she considered, fell “below the standard of a reasonably competent lawyer”.
9. Mr HM did not prepare the application for Probate. He was insisting on receiving the certificate confirming her mother’s death which, Ms PL says, was not necessary to apply for Probate.
10. Mr HM did not prepare a statement of assets and liabilities of the estate although, Ms PL says, he had all the information to enable him to do so.

¹¹ At [11].

¹² At [11.1(d)].

¹³ At [11.1(h)].

¹⁴ At [11.1(i)].

11. Mr HM failed in his duty as a Trustee of the Trust by not making sure the property was insured.
12. Mr HM did not have authority to give a notice to quit to Ms PL's daughter who was residing in the house.

The Standards Committee determination

[23] After comparing the issues dealt with in Ms PL's first complaint to those raised in her second complaint, the Committee identified the new issues to be addressed as being:¹⁵

- (i) Whether Mr HM at all times treated Ms PL with respect and courtesy as required by Rule 3.1 of the RCCC in respect of the conduct described in paragraphs 5-10 of the Costs Judgment of [Judge] dated [XXXXXX]
- (ii) Whether Mr HM failed to promptly answer requests for information or other inquiries from Ms PL in relation to her requests for a copy of her mother's will and for details of legal costs incurred to date and, if so, whether this was contrary to Rule 7.2 of the RCCC;
- (iii) Whether Mr HM failed to disclose information to Ms PL (that is, the existence of the Memorandum of Wishes and the Enduring Power of Attorney) and, if so, whether this was contrary to Rule 7 of the RCCC.

Respect and courtesy

[24] The Committee considered that "most of the issues raised by Ms PL fell within the ambit of Rule 3.1 of the RCCC, that is, whether Mr HM treated Ms PL with the respect and courtesy required by a lawyer towards a client".¹⁶

[25] The Committee referred to the comment by [Judge] in his judgment¹⁷ that Mr HM must bear some responsibility for the "acrimony and mistrust between Mr HM and Ms PL, which resulted in them being unable to work together as executors and trustees".¹⁸

[26] The Committee came to the view that:¹⁹

...the tone of Mr HM's correspondence had overstepped the line of acceptable conduct. As a lawyer, Mr HM is expected to act professionally. His correspondence became personal and patronising. A lawyer should, in his or her correspondence, attempt to de-escalate the conflict rather than inflame it. Rule 3.1 of the RCCC requires a lawyer to at all times treat a client with respect and courtesy.

¹⁵ Standards Committee determination (21 December 2018) at [19] [second determination].

¹⁶ At [20].

¹⁷ *HM v PL*, above n 7.

¹⁸ Second determination, above n 15 at [21].

¹⁹ At [23].

[27] The Committee determined this amounted to unsatisfactory conduct by reason of a breach of r 3.1.

Answering requests for information

[28] The Committee referred to r 7.2 of the Conduct and Client Care Rules which provides:

A lawyer must promptly answer requests for information or other inquiries from the client.

[29] In this regard, Ms PL says that Mr HM refused to provide her with a copy of her mother's will. "The Committee was satisfied that Mr HM had responded to Ms PL's request promptly."²⁰

Fee information

[30] With regard to Ms PL's complaint that Mr HM had not provided information about the current level of fees, the Committee noted that Mr HM advised he had not rendered any invoice or sought to deduct costs until the costs judgment had issued. In this regard, the Committee reached the conclusion that Mr HM had not breached r 7.2 and determined to take no further action on this issue.

Failing to disclose information

[31] This issue relates to the fact that Mr HM did not provide Ms PL with a copy of her mother's memorandum of wishes, or advise her of the fact that her mother had expressed the wish that Ms PL be appointed a Trustee of the Trust after she had died.

[32] The Committee addressed the requirements of r 7 when addressing this issue. Rule 7 provides:

A lawyer must promptly disclose to a client all information that the lawyer has or acquires that is relevant to the matter in respect of which the lawyer is engaged by the client.

[33] The Committee determined:²¹

...The memorandum of wishes was certainly relevant to a matter in respect of which Mr HM was acting. The Committee was of the view that he ought to have provided Ms PL with a copy of the document, and it was unacceptable that she only learned of its existence during the course of discovery. As a result the Committee found that Mr HM had breached Rule 7 of the RCCC.

²⁰ At [27].

²¹ At [33].

[34] The Committee determined this amounted to unsatisfactory conduct pursuant to s 12(c) of the Act.

Enduring power of attorney

[35] Mr HM refused to provide Ms PL with a copy of her mother's enduring power of attorney in which she had appointed Ms PL her attorney. The Committee determined to take no further action on this matter as it considered Ms PL ought to have been aware of the existence of the power of attorney as she had in fact been required to execute the document herself.

Summary

[36] Having made two findings of unsatisfactory conduct against Mr HM, the Committee ordered:

1. Mr HM to pay a fine of \$1,000 to the New Zealand Law Society; and
2. Mr HM to pay \$1,000 in respect of costs and expenses of the inquiry, investigation and hearing conducted by the Committee.

Mr HM's application for review

[37] Mr HM gave five reasons for his application for review of the Committee's decision:²²

- (1) The complaint was an attempt to relitigate an earlier decision of the Standards Committee which went against Ms PL. The Committee should have declined to consider it further.
- (2) In relation to issue (i) in the decision (attached) the Committee failed to consider all of the email, in context. A very broad reference is made to "correspondence which stepped over the line". I rely on my detailed submissions and extensive affidavit attached, all of which was presented to the Committee.
- (3) In relation to issue (ii) the Committee has correctly concluded that no further action should be taken.
- (4) In relation to issue (iii) the Committee has wrongly dismissed my explanation in paragraphs 28 and 29 of my submissions to NZLS of 6/9/18.
- (5) I consider the complaint to be an abuse of process and confirm that at all times I acted professionally and appropriately in the circumstances.

²² Mr HM, application for review at part 6.

[38] Accompanying Mr HM's application for review, were many pages of material comprising his time sheets, correspondence, documents, file notes and other documentation. If I have overlooked the relevance of any of this material it is because it was not specifically identified as relating to any of the grounds of review.

[39] Ms PL's response to the application for review was similarly, to provide multiple pages of material. Again, if I have overlooked the relevance of any of this material, it is because Ms PL has not related this to specific aspects of her response.

[40] This lack of specificity from both parties has made this review somewhat difficult to complete.

Review

[41] As noted in the introduction to this decision, this is the second complaint made by Ms PL about Mr HM and relates to the same matters which gave rise to the first complaint.

[42] The first complaint was made on 9 May 2016. At that time, all matters had been resolved between the parties other than the issue of costs, which at the time was before the High Court.

[43] In its first determination dated 3 October 2016, [Area] Standards Committee [X] summarised Ms PL's complaints as being:

- (i) Whether Mr HM failed to conduct dealings with Ms PL with integrity, respect and courtesy;
- (ii) Whether Mr HM acted in a bullying and threatening manner towards Ms PL;
- (iii) Whether Mr HM failed to provide Ms PL with requested information;
- (iv) Whether Mr HM failed to provide Ms PL with an estimate of fees upon request; and
- (v) Whether Mr HM's fees are unfair and unreasonable.

[44] The Committee addressed these issues together. It said:²³

From the material provided to the Committee, the Committee does not consider that there is any evidence in support of any conduct issues that would reach the threshold of unsatisfactory conduct. ...

²³ Standards Committee determination (3 October 2016) at [6] [first determination].

[45] The Committee determined to take no further action with regard to those complaints.

[46] The Committee added the following rider to its first determination:²⁴

... In the event that the High Court judgment raises any new conduct issues, Ms PL will be entitled to file a new complaint with the Law Society about those matters, should she choose to do so.

[47] Consequently, the first question to address in this review is whether or not the High Court judgment has raised any new conduct issues.

[48] The second question to address is whether Ms PL's second complaint raises issues that were not included in the first complaint.

[49] Mr DK, counsel for Ms PL says:

The conduct issues which are the subject of the complaint are set out in specific and careful detail in paragraphs 9.1 to 9.7, 10.3 to 10.6, and 11.1 and 1.2 of our client's submissions.

[50] In his application for review, Mr HM says all issues were dealt with in the first complaint.

The High Court judgment

[51] The focus of [Judge] judgment was to determine the quantum of costs to be awarded to Mr HM and his counsel, Mr FR.

The first complaint versus the second complaint

[52] The issues addressed by the Committee in its first determination have been set out above but bear repeating here:²⁵

- (i) Whether Mr HM failed to conduct dealings with Ms PL with integrity, respect and courtesy;
- (ii) Whether Mr HM acted in a bullying and threatening manner towards Ms PL;
- (iii) Whether Mr HM failed to provide Ms PL with requested information;
- (iv) Whether Mr HM failed to provide Ms PL with an estimate of fees upon request; and
- (v) Whether Mr HM's fees are unfair and unreasonable.

²⁴ At [6].

²⁵ At [43] of this decision; [4] of the first determination.

[53] The issues addressed by the Committee in its second determination are:

- (i) Whether Mr HM at all times treated Ms PL with respect and courtesy as required by Rule 3.1 of the RCCC in respect of the conduct described in paragraphs 5-10 of the Costs Judgment of [Judge J] dated [XX XX XXXX]
- (ii) Whether Mr HM failed to promptly answer requests for information or other inquiries from Ms PL in relation to her requests for a copy of her mother's will and for details of legal costs incurred to date and, if so, whether this was contrary to Rule 7.2 of the RCCC;
- (iii) Whether Mr HM failed to disclose information to Ms PL (that is, the existence of the Memorandum of Wishes and the Enduring Power of Attorney) and, if so, whether this was contrary to Rule 7 of the RCCC.

[54] Whether or not Mr HM conducted his dealings with Ms PL with respect and courtesy was the first issue addressed by the Committee in each determination. In its first determination the Committee did "not consider that there [was] any evidence in support of any conduct issues that would reach the threshold of unsatisfactory conduct".²⁶

[55] It therefore determined to take no further action on this aspect of Ms PL's complaint.

[56] In the second determination, the Committee referred to paragraphs [5]–[10] of His Honour's judgment. I am somewhat hampered in that the Committee has not referred to which portions of each paragraph it has identified as a "new conduct issue". In the absence of that detail, I will now proceed to examine each paragraph, and have attempted to identify and discuss which comments made by His Honour raise issues not addressed in the first determination.

[57] In paragraph [5], His Honour states "Mr HM must bear some responsibility" for the fact that Mr HM and Ms PL "were unable to work together".²⁷ In paragraph [1] of the first determination, the Committee referred to Mr HM applying to the Court to be appointed sole executor which ultimately resulted in him resigning as an executor and Trustee and being replaced by the Public Trust. The material provided by the parties make it clear that Mr HM's application arose because he and Ms PL were unable to work together. The Committee could not have formed the view that the sole responsibility for this lay with Ms PL. His Honour has only stated what is apparent from the material provided with the first complaint. Consequently, this does not constitute a "new" issue.

²⁶ Second determination, above n 23 at [6].

²⁷ *HM v PL*, above n 7.

[58] In paragraph [6]–[10] of the judgment, His Honour includes quotes from a number of emails from Mr HM to Ms PL. The emails are dated 8, 15, and 25 May 2015, and 2 June 2015. All of these emails predate the Committee’s determination in October 2016. The May emails were exhibits to Mr HM’s affidavit sworn on 19 August 2015.

[59] The Committee’s findings in the determination under review, in respect of these matters, were:²⁸

After carefully considering the correspondence between the parties, the Committee reached the view that although there was undoubtedly fault on both sides, on balance, the tone of Mr HM’s correspondence had overstepped the line of acceptable conduct. As a lawyer, Mr HM is expected to act professionally. His correspondence became personal and patronising. A lawyer should, in his or her correspondence, attempt to de-escalate the conflict rather than inflame it. Rule 3.1 of the RCCC requires a lawyer to at all times treat a client with respect and courtesy.

Having regard to the consumer protection focus of the Act, and particularly taking into account the views of the non-lawyer members, the unanimous view of the Committee was that Mr HM had failed to treat Ms PL with the required respect and courtesy and had breached Rule 3.1 of the RCCC.

[60] The Committee had jurisdiction to consider “any new matters concerning Mr HM’s conduct”.²⁹ It does not appear that Ms PL provided the Committee with Mr HM’s affidavit, or any of the email correspondence referred to by His Honour.

[61] In her complaint, Ms PL refers to the email of 2 June 2015 as “aggravating” matters. Mr DK opines that the police would not have taken any action on the complaint but there is a suggestion that the email may have constituted ‘blackmail’.³⁰

[62] Justice [XX] categorised this email as ‘threatening’.³¹ It was certainly ill considered, reflecting Mr HM’s frustrations at not having all of the deceased’s documentation which he considered should be made available to him as executor. It may have been a ‘new’ matter identified in the judgment but, in itself, would not support a finding of unsatisfactory conduct.

Discussion

[63] In its first determination, the Committee addressed the question as to whether Mr HM had breached the obligations of a lawyer to treat clients with respect and courtesy. In the handwritten notes attached to her first complaint, Ms PL refers on a

²⁸ Second determination, above n 23 at [23]–[24].

²⁹ At [13].

³⁰ Crimes Act 1961, s 237.

³¹ *HM v PL*, above n 7, at [10].

number of occasions to Mr HM's lack of professionalism, his bullying manner, and his continued attacks on her.

[64] Ms PL's complaint was made on 2 May 2016. Mr HM swore his affidavit in support of his application to the High Court on 19 August 2015. In her complaint, Ms PL referred extensively to Mr HM's unprofessional and bullying conduct. However, Ms PL did not provide a copy of Mr HM's affidavit or any of the emails exhibited to that affidavit. Nor did the Committee request her to provide this evidence.

[65] Consequently, despite both Ms PL and the Committee having the opportunity to pursue this aspect of the complaint, neither did so.

[66] Nevertheless, I am in full agreement with the Committee's comments set out in [59] above.

[67] The second complaint prepared for Ms PL by Mr DK, seizes on the comments made by His Honour and refers to correspondence contained within the judgment. Ms PL refers to these as 'new issues'. I do not agree. They are the same issues but supported by additional material.

[68] Regulation 26(1) of the Standards Committee Regulations³² requires a Standards Committee to act in accordance with the rules of natural justice.³³ One of the principles of natural justice is that a person should not stand accused of the same matters on more than one occasion.³⁴ It would be unreasonable for Ms PL to be provided with a "second bite of the cherry" with regard to exactly the same issue which was part of her first complaint.

[69] I am therefore driven to the view that the Committee's finding of unsatisfactory conduct cannot stand with regard to this issue.

Requests for information

[70] The same comments apply to the second issue addressed by the Committee, namely, answering requests for information. That issue was recorded as issue 3 in paragraph [4] of the first determination. Again, this is not a matter that can be the subject of a second complaint.

³² Lawyers and Conveyancers Act (Lawyers: Complaints Service and Standards Committees) Regulations 2008.

³³ See also *Singh v Auckland District Law Society* [2000] 2 NZLR 604 (HC).

³⁴ New Zealand Bill of Rights Act 1990, s 26.

Failing to disclose information

[71] Rule 7 of the Conduct and Client Care Rules provides:

A lawyer must promptly disclose to a client all information that the lawyer has or acquires that is relevant to the matter in respect of which the lawyer is engaged by the client.

[72] Mrs EW had established a Trust during her lifetime. The major (if not only) asset of the Trust was the property owned by her and in which she was living. The Trustees of the Trust were Mrs EW and Mr HM.

[73] On 3 June 2008, Mrs EW had expressed the wish in a memorandum of wishes, that Ms PL be appointed a trustee of the Trust following Mrs EW's death. Ms PL complains that Mr HM failed to inform her of the existence of this memorandum.

[74] A memorandum of wishes is an expression of what the settlor of the Trust wishes to happen with regard to administration of the Trust after the settlor has died. A Trustee has a discretion as to whether or not to comply with a memorandum of wishes.

[75] The Committee has taken the view that Mr HM was obliged to disclose the existence of the memorandum of wishes to Ms PL pursuant to r 7. This rule however, provides that the duty of disclosure applies to "information that the lawyer has that is relevant to the matter in respect of which the lawyer is engaged by the client". Ms PL was not Mr HM's client in respect of matters relating to the Trust. Any objection to Mr HM's failure to disclose the memorandum would need to be brought against Mr HM acting as a trustee. That is not a matter for the complaints process.

[76] The Committee said:³⁵

... upon her mother's death Ms PL became Mr HM's client in her capacity as an executor of the estate. The memorandum of wishes was certainly relevant to a matter in respect of which Mr HM was acting.

[77] Again, I do not agree. Mr HM was acting for the executors of Mrs EW's estate, his first role being to apply for Probate. When Probate issued, his role, acting for the executors of the estate, was to administer Mrs EW's will, according to its tenor.

[78] Ms PL was not Mr HM's client with regard to matters relating to the Trust. It is stretching the meaning of r 7 to conflate the two. I do not therefore agree that Mr HM has breached r 7.

³⁵ Second determination, above n 23 at [33].

[79] In light of the differing views between myself and the Committee, the only outcome can be to reverse the finding of unsatisfactory conduct based on a breach of the rule.

Fees

[80] In the complaint, Mr DK (on behalf of Ms PL) submits that by virtue of the fact that [Judge] J had reduced Mr HM's fees, this in itself meant that Mr HM had overcharged and was therefore in breach of r 9. He also submits that Mr HM was attempting to avoid the "requirements and obligations under the Lawyers and Conveyancers Act and the Client Care Rules relating to solicitors' costs, by not rendering an invoice for any of the costs claimed".³⁶

[81] That is not an issue that was addressed by the Committee but it does require comment. The Court's judgment was not given within the framework of the complaints and disciplinary processes relating to lawyers. However, in its first decision, the Standards Committee deferred to the judgment of the Court. That is where the matter remains and cannot be raised again in this second complaint.

[82] Ms PL suggests that Mr HM has breached r 9.4 by refusing to give her an estimate of the likely costs to administer the estate. In paragraph [28(a)] of the affidavit filed by Ms PL in response to Mr HM's application to be appointed sole executor,³⁷ Ms PL refers to her email of 24 May 2015 to Mr HM in which she says Mr HM responded by referring to his hourly rate and that the file will be charged.

[83] This does not amount to an 'estimate' of the cost to administer the estate but given the dissension that was occurring, it would have been difficult to provide even an estimate to obtain a grant of Probate, which is usually a straightforward matter.

[84] The practicalities of the situation need to be recognised and in the circumstances it would have been impossible for Mr HM to provide an estimate of costs to administer the estate.

General comments

[85] Mr HM's conduct and emails certainly exhibit poor standards of conduct and do not fulfil the standards expected of a lawyer. I acknowledge Mr HM's concerns that

³⁶ Supporting reasons, above n 4 at [10].

³⁷ Ms PL, affidavit (6 November 2015).

Ms PL had been endeavouring to manipulate her mother into bequeathing the whole of her estate to her. Mr HM had been Mrs EW's lawyer for over 18 years and understandably, he wished to protect Mrs EW from any such influences. This was the setting which came to the surface when Mrs EW died.

[86] A lawyer must remain objective in such circumstances, and must always remain professional, respectful and courteous. Mr HM's correspondence with Ms PL cannot be described as 'professional, respectful, and courteous.' It is clear that Mr HM allowed his antipathy towards Ms PL to colour the ongoing relationship with her.

[87] I acknowledge that neither this decision (nor that of the Standards Committee) addresses a number of the 'new matters' raised by Ms PL and set out in [22] above. All of the tension between Mr HM and Ms PL arose in 2015, and previous years. It would be disparaging to Ms PL to refer to these as 'make weight' complaints, but to resurrect such complaints after 5 years and more, is not helpful to Ms PL, or fair to Mr HM.

[88] If the matters complained of were more recent, I would ask Mr HM to voluntarily apologise to Ms PL for his conduct. However, matters need to be laid to rest.

Decision

[89] Pursuant to s 211(1)(a) of the Lawyers and Conveyancers Act 2006 the findings of unsatisfactory conduct against Mr HM are reversed. Consequently, the orders made by the Committee fall away. In all other respects, the determination of the Committee is confirmed.

Publication

[90] I direct that this decision be published with all identifying details of the parties removed.

DATED this 22nd day of October 2020

O Vaughan
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 HM as the Applicant
Ms PL as the Respondent
Mr MF as the Applicant's Representative
[Area] Standards Committee [X]
New Zealand Law Society