

## **ZIMBABWE COMPLAINS INTAKE PROCESS**

The Zimbabwe complains system has been constantly changing. The changes in the system have been progressive.

The Law Society of Zimbabwe plays both the representative role and the regulatory role.

The organised profession has existed since 1907 and for close to a century the profession remained the preserve of a minority race and their services remained largely inaccessible to the majority.

The complains system accordingly remained basic. Complains were **received in writing** and **the secretary** carried out his **investigations** and **determined** whether there was a ***prima facie*** case or not. Where the secretary after his investigations determined that no ***prima facie*** case existed he could dismiss the case.

Where the secretary determined that a ***prima facie*** case existed he summarised the matter and forwarded all information gathered during his investigation. The material would be forwarded to a Disciplinary and Ethics Committee comprising of elected officials of council.

These DEC members would then individually go through the file and make their findings. When the last member was done the file would be referred back to the Secretary who would then compile the common position and forward to council.

The system had its weakness in that it failed to provide an opportunity to reach a consensus in the DEC because the DEC is a three member committee, there was no chance of a deadlock. The system also provided a gap to the Secretary to shape the recommendation that went to council.

The system has changed and now allows for the DEC to meet and come up with a common position. The Secretary now has the authority to mediate.

It still retains the right to investigate and determine whether there is a ***prima facie*** case or not.

Further improvements to the system has been the introduction of an online complaints platform.

The system of tracking complaints is now also partially computerised. Simplified complaints forms have been introduced as per attached sample.

Decisions of council are renewable and also appealable to the High Court and Supreme Court respectively.

Where council feels that a severe penalty of either deregistration or suspension council applies to the Legal Practitioners Disciplinary Tribunal. In such cases the LSZ representative prosecutes the matter on behalf of the profession.

1. There is no free telephone complaint hotline. Complains can be made through the Society's website through e-mail, ordinary mail or paid telephone call.
2. The Society has a website. The Society also periodically goes on national radio stations and inform the public about its work.

This also supported by regular open days around the country where the public is advised about the role of the Society in dealing with errant lawyers. The open days are also used to fake complaints against member of the profession.

3. The intake process is manned at entry level by a qualified secretary who captures details of the complaint, assigns a reference number to the complaint and enters the complaint into the system.

The secretary also does preliminary interviews to walk in clients and assists them to complete the standard complains form.

Professional staff take over the process to deal with the substantive investigation.

From the professional staff the matter goes to the Disciplinary and Ethics Committee manned by volunteer attorneys elected from the general membership and they are a subcommittee of council.

4. The first line staff trained in office administration and secretarial work. The professional staff should have a first degree in law and mediation or conciliation/ADR skills would also help.
5. A significant amount of complaints are a result of poor or failed communication between the attorney and the client. So I believe proper mediation could result in the resolution of complaints. Mediation is done by the professional staff. The outcome is either a settlement or no settlement. Where there is a settlement the professional oversees the implementation of the terms of settlement. If terms are not ordered then the matter is escalated to the Disciplinary Committee for a substantive ruling on the conduct of the respondent attorney.
6. Deciding what is mediated and what is not is currently not a guided exercise. Its matter is treated on its merit. From experience how there are cases that lend themselves amenable to settlement especially around allegations of overreaching in charging fees.

Allegations of lack of progress or lack of communication can also be resolved by mediation.

7. The secretary/professional staff decide on what complaints move to the next stage. Guidelines could be developed to avoid arbitrariness in decision making.
8. The next step involves summarising the facts, analysing the relevant law or code provision and making a recommendation and referring the matter to the DEC.
9. Information collected at intake conduct is not standard. In some cases complainants submit dossiers with no synthesis of the complaint prompting attorney to cherry pick issues they are comfortable to address.

Other give too few details leading attorney to demand further particulars. The complaints form does not adequately address this problem.

This lack also causes delays in finalising complaints with the Society sometimes being reduced in to a post box.

10. The data collected is used to assist to determine the veracity of allegations as well as statistical data to aid policy formulation.
11. The data collected is either in hard copy or electronic. The hard copy is then converted into electronic data.
12. Issues are not formerly triggered but cases of abuse of funds received urgent attention including obtaining resolutions on  
a round robin basis.