



BERMUDA BAR ASSOCIATION

ADVICE FOR THOSE MAKING COMPLAINTS IN RELATION TO ATTORNEYS' FEES

(Option 1) Where there is a formal complaint filed with the Professional Conduct Committee relating to the amount of fees charged.

Generally speaking, the amount of legal fees charged to a client is not a matter governed by the Barristers' Code of Professional Conduct 1981, being a matter of contract between the client and his attorney. While there are particular limitations regarding attorneys' fees to be found in the Code, such as a prohibition on contingent or percentage fees in contentious matters other than debt collections, the Bar Council cannot regulate what attorneys charge their clients for their services, whether it be at a rate per hour or at a fixed fee. Such being the case, the Council does not have any statutory basis to deal with a complaint over fees in a formal way. However, for many years there has been an informal Fees Committee of the Bar Council that exists to hear and decide upon such complaints which have been referred to the Professional Conduct Committee ("PCC"); the Arbitration Committee ("Committee") comprises five members of the Bar Association of which three are selected to hear the matter, namely Mr. John Riihiluoma (Chairman), Mr. Mark A. C. Diel, Mr. Warren Bank, Mrs. Charlene A. Scott and Ms. Britt Smith. No fees are charged for this service. The complainant will not be charged any additional fees from the law firm other than what has already been invoiced.

The Committee is prepared to hear both sides of a dispute over the amount of an attorney's bill and to make a decision on the proper amount to be charged, bearing in mind all of the circumstances of the case. Before the Committee can do this, **it is essential that both the client and the attorney agree to be bound by any future decision of the Committee**, otherwise the efforts of the Committee might all be in vain. Should either the client or the attorney not be willing to be bound by any decision of this Committee, the only available alternative is to have the dispute resolved by a court of law.

Fees complaints must be in writing and directed to the Bar Council in the first instance. It should be noted that where a Summons has been issued by a law firm through the Magistrate's Court against their client for unpaid fees, the Bar Council will NOT entertain a fees complaint against that law firm, as it has no jurisdiction over such proceedings.

After a complaint is forwarded to the Committee, the Chairman will contact both the client and the attorney to arrange a hearing date. The client, if they wish can have another attorney represent them at the hearing.

(Option 2) Where a fees enquiry has been raised with Bar Council

Bar Council and the PCC are pleased to report that the Fees' Arbitration Committee agreed to extend the scope of their appointment to where clients aggrieved by legal fees charged (where there is no allegation of professional conduct) may now opt to have their matter heard free of charge by the Committee, provided that both the law firm and the client agree in writing to be bound by the decision of the Fees' Arbitration Committee. Arbitration Rules will apply. Either side, after having attempted to resolve the dispute may have the matter adjudicated under a Fees' Arbitration. Copies of all invoices for work carried out would be provided to the Bar Office together with the narrative as to why there is a dispute for provision to the Committee. The Committee may impose further requirements as they see fit. A suitable date is then confirmed with both parties to attend a hearing. The complainant will not be charged any additional fees from the law firm other than what they have already been invoiced.

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