

**BRIEF GUIDE TO MAKING A COMPLAINT UNDER  
SECTION 85(1) OF THE LEGAL PROFESSION ACT  
AGAINST A LAWYER FOR  
PROFESSIONAL MISCONDUCT**

**August 2019**

**By  
The Law Society of Singapore**

# **MAKING A COMPLAINT AGAINST THE CONDUCT OF A LAWYER**

## **A COMPLAINT OF MISCONDUCT UNDER SECTION 85(1) OF THE LEGAL PROFESSION ACT (CHAPTER 161) (THE "ACT")**

### **1. WHAT IS "PROFESSIONAL MISCONDUCT"?**

The conduct of a lawyer which is below the standard expected of a member of an honorable profession. .

The complaint is made under Section 85(1) of the Legal Profession Act (Chapter 161) ("the Act") to the Council of the Law Society of Singapore, which is the governing body of the Law Society.

The Council can only refer a complaint to the Chairman of the Inquiry Panel if it is made in accordance to the requirements of the Act.

The complaint of misconduct may be made against a lawyer in a Singapore law practice and is not restricted only to the lawyer engaged and /or appointed to act on your behalf.

### **2. POWERS OF THE INQUIRY COMMITTEE TO ORDER COSTS AGAINST YOU**

Kindly take note that if your complaint is referred for investigation by an Inquiry Committee (IC) the IC may require you to deposit with The Law Society a reasonable sum not exceeding S\$1,000 to cover costs and expenses. Further, if the IC finds the complaint to be frivolous or vexatious, the IC may order you to pay any person including the lawyer(s) you have complained against, all or any costs reasonably incurred by the lawyer(s) in the proceedings before the IC or direct that the amount be taxed by the Registrar. Such costs shall be a debt due from you to the lawyer(s) concerned.

### **3. EXAMPLES OF PROFESSIONAL MISCONDUCT**

Professional misconduct may include dishonesty, fraud, gross overcharging for work done, misleading statements, divulging confidential or privileged information, acting in conflict of interest or acting in breach of the Rules of the Law Society such as the Legal Profession (Professional Conduct) or Publicity Rules or Solicitors' Accounts Rules.

### **4. MAKING A COMPLAINT OF MISCONDUCT**

From 15 October 2008, you **must** provide a Statutory Declaration **and** a Complaint Letter to lay complaint of misconduct.

#### **A. Statutory Declaration**

- a) You are required by the Act to support your complaint with a Statutory Declaration in the form of this leaflet. Please note that a Statutory Declaration is a legal document that the statements made in your complaint are true. Making a false declaration may give rise to penalties provided under the Oaths and Declaration Act (Chapter 211). Please see FAQs on Statutory Declarations attached to this form.

## B. Complaint Letter

You are required to provide the following in a separate letter:-

- b) Caption your letter "Complaint under Section 85(1) of the Legal Profession Act".
- c) State your full name, residential address as in your NRIC/Passport and contact number and attach a copy of your NRIC (front and back) or a copy of the bio-data page of your passport. If you are making a complaint on behalf of a Company, LLP or MCST, you must be the authorized representative of the entity and furnish a Letter of Authority stating that you are authorized to make the complaint on behalf of the entity.
- d) The name of the lawyer you are making the complaint against and the Singapore law practice where the lawyer is or was last practicing in. Please note that under the Act, a complaint cannot be made against a law practice.
- e) Describe clearly the alleged misconduct and when it occurred. Where there is more than one allegation of misconduct, use a bullet point format (point by point) to state each alleged misconduct and when it occurred.
- f) Provide copies of the necessary documents that support and/or set out the details of your complaint. Do not send originals.
- g) Indicate if the complaint refers to misconduct which occurred more than 6 years from the date of the complaint or more than 6 years from the earliest date you discovered the fraud or could with reasonable diligence have discovered it. The Council cannot refer a complaint concerning the conduct of a lawyer more 6 years after the date of the misconduct to the Chairman of the Inquiry Panel without the leave of the High Court.
- h) Where there is more than one complaint, state each complaint as a heading and provide the particulars and described in (f) to support each alleged complaint.
- i) Write the information clearly and sign the complaint. The complaint must be addressed to the Head, Conduct Department" and sent to the Law Society together with the original Statutory Declaration and the supporting documents either by mail or by hand to "The Law Society of Singapore, 28 Maxwell Road, #01-03 Maxwell Chambers Suites Singapore 069120  
(wef: 12 January 2017)
- j) The Society cannot accept verbal complaints or complaints via e-mail or provide advice on the merits or success of a complaint or give legal advice. Upon receiving the documents as stated above, the Society will send an acknowledgement informing you of the date at which the Council will consider your complaint.
- k) A complaint may be in a language other than English, however, you are required to bear the cost of translation into English for the complaint letter and any supporting documents. Where you do not have the means to translate the documents into English, the Society will do so and this cost will be a debt owed the Society.
- l) For voice recordings, you are required to provide a transcription in English. Where you do not have the means to provide a transcription the records in English the Society will do so and under the law the costs of the same will be a legal debt you owe the Society.
- m) Please refer to the Law Society's website <http://www.lawsociety.org.sg> for further information on lodging a complaint.

(To be used for declarations by individual persons)

**STATUTORY DECLARATION UNDER THE OATHS AND DECLARATIONS ACT (CAP 211)**  
***in support of a complaint against an advocate and solicitor made under Section 85(1) of the***  
***Legal Profession Act (Cap 161)***

I \_\_\_\_\_ (Name) holder of NRIC/Passport number\* \_\_\_\_\_  
residing at \_\_\_\_\_ do solemnly and sincerely declare as follows:-

1. all the statements made by me in my letter of complaint dated the..... day of..... 20..... to the Council of the Law Society of Singapore (hereinafter called "my Letter of Complaint") are true on every point material to the complaint and there are no other particulars or additional information relevant to my complaint;
2. the conduct complained of in my Letter of Complaint did not occur more than six years prior to the date of my letter of Complaint;
3. to the best of my knowledge there are/ are no<sup>1</sup> other complaints made to the Law Society of Singapore by me or any other person which arises from the same set of facts and particulars detailed in my letter of complaint dated the..... day of..... 20..... to the Council of the Law Society of Singapore; and

the particulars of the complaints are set out in the exhibit marked "A" and attached to this Statutory Declaration. (*delete if inapplicable*).

I understand that any person who makes in a statutory declaration a statement which is false and which he knows or has reason to believe is false or does not believe to be true, touching any point material to the object for which the statutory declaration is made or used, commits an offence under the Oaths and Declarations Act (Cap 211) for which upon conviction a person can be imprisoned for a term that may extend to 7 years and a fine.

**AND**

I make this solemn declaration by virtue of the provisions of the Oaths and Declarations Act (Cap 211) and subject to the penalties provided by that Act for the making of false statements in statutory

<sup>1</sup> S85(1) Legal Profession Act (cap 161) :

Any complaint of the conduct of an advocate and solicitor —

- (a) shall be made to the Society in writing;
- (b) shall include a statement by the complainant —
  - (i) as to whether, to his knowledge, any other complaint has been made to the Society against the advocate and solicitor, by him or by any other person, which arises from the same facts as his complaint; and
  - (ii) if so, setting out such particulars of each such complaint as the Council may require and he is able to provide.

*(To be used for declarations by individual persons)*

declarations, conscientiously believing the statements contained in this declaration to be true in every particular.

Declared at \_\_\_\_\_ )

By \_\_\_\_\_ )

This day of \_\_\_\_\_ 20 \_\_\_\_\_ ) (signature)

Before me,

**Commissioner for Oaths/Notary Public**

(For use by declarations made on behalf of corporate bodies)

**STATUTORY DECLARATION UNDER THE OATHS AND DECLARATIONS ACT (CAP 211)  
in support of a complaint against an advocate and solicitor made under Section 85(1) of the  
Legal Profession Act (Cap 161)**

I..... (Name) holder of NRIC/Passport number\* ..... residing  
at..... do solemnly and sincerely declare as follows:-

- (a) I am duly authorized by \_\_\_\_\_ (Principal) to make the  
complaint dated the \_\_\_ day of \_\_\_\_\_ 20\_\_\_ to the Council of the Law Society  
(hereinafter called "the Letter of Complaint");
- (b) the facts stated in the Letter of Complaint signed by me on behalf \_\_\_\_\_  
(Principal) are within my personal knowledge or derived from documents placed before me and are  
true on every point material to the complaint and there are no other particulars or additional  
information relevant to the complaint;
- (c) the conduct complained of in the Letter of Complaint did not occur more than six years prior to the  
date of the Letter of Complaint;
- (d) to the best of my knowledge there are/ are no<sup>1</sup> (*delete whichever is inapplicable*) other complaints  
made to the Law Society of Singapore by me or any other person which arises from the same set  
of facts and particulars detailed in the Letter of Complaint; and

the particulars of the complaints are set out in the exhibit marked "A" and attached to this Statutory  
Declaration. (*delete if inapplicable*).

I understand that any person who makes in a statutory declaration a statement which is false, and  
which he knows or has reason to believe is false or does not believe to be true, touching any point  
material to the object for which the statutory declaration is made or used, commits an offence under the  
Oaths and Declarations Act (Cap 211) for which upon conviction a person can be imprisoned for a term  
that may extend to 7 years and a fine.

**AND**

I make this solemn declaration by virtue of the provisions of the Oaths and Declarations Act (Cap 211)  
and subject to the penalties provided by that Act for the making of false statements in statutory

<sup>1</sup> S85(1) Legal Profession Act (cap 161) :

Any complaint of the conduct of an advocate and solicitor —

- (a) shall be made to the Society in writing;
- (b) shall include a statement by the complainant —
- (i) as to whether, to his knowledge, any other complaint has been made to the Society against the advocate and solicitor,  
by him or by any other person, which arises from the same facts as his complaint; and
- (ii) if so, setting out such particulars of each such complaint as the Council may require and he is able to provide.

*(For use by declarations made on behalf of corporate bodies)*

declarations, conscientiously believing the statements contained in this declaration to be true in every particular.

Declared at \_\_\_\_\_ )

By \_\_\_\_\_ )

This day of \_\_\_\_\_ 20 \_\_\_\_\_ ) (signature)

**Before me,**

**Commissioner for Oaths/Notary Public**

**SAMPLE**

(Date)

Law Society of Singapore  
28 Maxwell Road  
#01-03 Maxwell Chambers Suites  
Singapore 069120  
Attention: Head, Conduct Department

Dear Sir / Madam,

**COMPLAINT AGAINST MR XYZ OF MESSRS XYZ & CO UNDER SECTION 85(1) OF THE LEGAL PROFESSION ACT**

1. The following are my particulars:

Name:  
NRIC No.  
Address:  
Contact No.

2. The lawyer I wish to make a complaint against:

Name:  
Singapore law practice:

3. I am laying a complaint against the lawyer for:

- (a) 1<sup>st</sup> Complaint
- (b) 2<sup>nd</sup> Complaint
- (c) 3<sup>rd</sup> Complaint

4. Particulars of the complaint are as follows:

**(a) 1<sup>st</sup> Complaint**

[Provide particulars specific to this alleged complaint, e.g. – "on 20/01/08, during a meeting with the lawyer he asked me to ... .."]

[Attach copies of the documents mentioned in your particulars, e.g. Warrant to Act, Order of Court, other documents prepared by lawyer, invoices, receipts, letters, faxes, emails, etc]

**(b) 2<sup>nd</sup> Complaint**

[Provide particulars specific to his alleged failure + copies of supporting documents]

**(c) 3<sup>rd</sup> Complaint**

[Provide particulars specific to his alleged failure + copies of supporting documents]

5. Thank you

Yours faithfully,

**Signature(s)**

[All complainants must be signed. Where the complaint is on behalf of a Company, LLP or MCST, a Letter of Authority must be furnished and the authorized Representative must sign the letter.]



# **MAKING A COMPLAINT AGAINST A LAWYER**

*under the Legal Profession Act*

## **Answers to Frequently Asked Questions on Statutory Declarations**

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**Q:** What is Statutory Declaration ('SD')?

**A:** A SD is a sworn or affirmed statement stating that the contents of the complaint are true to the best of your knowledge. SDs are governed by the Oaths and Declaration Act (Chapter 211).

**Q:** What is the difference between swearing / taking an oath and affirming a SD?

**A:** You would swear or take an oath if you are a Christian and where you are a Hindu or a Muslim or are of another religion or you have a conscientious objection to taking an oath, you will instead make an affirmation.

**Q:** Why do I have to make a SD to lay a complaint?

**A:** In light of the new amendments to Section 85 of the Legal Profession Act and rule 3 of the Legal Profession (Inadequate Professional Services Complaint Inquiry) Rules, all complaints would have to be supported by a SD of the makers of the complaint.

**Q:** Where there is more than one complainant, do each of the complainant need to make a separate SD?

**A:** More than one complainant may sign on the SD form where their complaint is a joint complaint and where the facts of their complaint are the same. Where the facts of each persons' complaint is different and independent of the others, a separate SD should be done for each maker of the complaint.

**Q:** My company would like to lay a complaint against a lawyer and has authorized me to act on its behalf, do need o make a SD?

**A:** You would need to make a SD stating that you are making the SD as the authorized representative of the company and the facts stated are true to the best of your knowledge.

**Q:** Where can I make a SD?

**A:** You may make an SD before a Commissioner for Oaths.

**Q:** I live overseas and would like to make a complaint, what do I do?

**A:** You would need to swear or affirm your statement before a notary public or justice of peace in your country.

**Q:** I am a foreign and am not able to understand English, can I make a SD in a foreign language?

**A:** You may inform the Commissioner for Oaths beforehand that you are only able to converse in a certain language and the Commissioner for Oaths will arrange for an interpreter to be present to translate the SD into the language you are familiar with.

**Q:** How much does it costs to make a SD?

**A:** It costs S\$25 to make a SD before a Commissioner for Oaths.

*(wef: 25 August 2017)*

**Q:** How much does it costs to notarize my document?

**A:** The costs of notarizing or taking an oath before a justice of peace will be accordance with the rates charged in the country you are located in.

**Q:** How much does it costs to make a SD when I do not speak English?

**A:** The cost of the SD remains S\$25 however you would need to pay additional cost of the interpreter's service.

*(wef: 25 August 2017)*