New Zealand Law Society
Te Kāhui Ture o Aotearoa

Consultation on potential changes to the Lawyers and Conveyancers Act 2006 and secondary legislation

August 2025

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Introduction

The New Zealand Law Society Te Kāhui Ture o Aotearoa is seeking feedback from the profession and the public on potential amendments to the Lawyers and Conveyancers Act 2006 (the Act) and to secondary legislation made under the Act.

Feedback received in this consultation will be provided to the Minister of Justice for considering reforms to the Act when any future legislative opportunities arise and to seek amendments to secondary legislation. If made, these changes will:

- Exempt two procedural types of Standards Committee decisions from review to the Legal Complaints Review Officer (LCRO).
- Create greater flexibility in the orders that can be made by Lawyers Standards Committees (Standards Committees).
- Enable disclosure of complaints information to an expanded range of interested parties (people affected by the conduct in question but who are not complainants; staff of other agencies carrying out a regulatory or law enforcement purpose) through amendment to the confidentiality provisions in the Act.
- Address inconsistencies in the Act relating to those participants who receive information about the outcome of a complaint or own motion investigation (OMI).
- Ensure the minimum legal experience criterion for practise on own account applications is targeted to the risk posed by the applicant's intended mode of practice.
- Enable the regulator to respond to regulatory risk by placing bespoke conditions on a lawyer's practising certificate.

How to provide feedback

Your feedback on these potential changes to the primary and secondary legislation for the regulation of lawyers is important. The Law Society is committed to ensuring that proposed amendments to the Act and secondary legislation are workable and that any potential issues have been identified before progressing changes to the legislation.

To provide your feedback, **please complete the survey by 5pm Friday 26 September 2025**. Any feedback you provide will be treated as confidential, and a consultation summary will be prepared which does not identify individual contributors.

Background to this consultation

A Regulatory Systems (Occupational Regulation) Bill (RSAB) is currently before Parliament which contains amendments to the Act that are aimed at better protecting consumers of legal services and lawyers, enabling the more efficient use of Law Society resources and addressing inconsistencies and redundant clauses in the existing legislation. The Education and Workforce

Select Committee reported back on this RSAB on 21 July 2025 and it is set down for second reading.

In preparation for future opportunities, the Law Society wishes to consult on further amendments to the Act and secondary legislation which it considers would continue to address efficiencies in the regulation of the legal profession and better protect consumers of legal services and lawyers.

This current consultation proposes amendments to the Act and the Lawyers and Conveyancers Act (Lawyers: Practice Rules) Regulations 2008.

Why are we proposing these amendments

The Law Society's view is that the proposed amendments would increase efficiencies in the regulation of the legal profession and better protect consumers of legal services and lawyers.

The proposed changes aim to:

1. **Maintain public confidence in the complaints process and improve consumer protection.** The proposed changes would allow for some flexibility in the disclosure of information about complaints, particularly in relation to parties who are personally affected and other regulatory agencies.

   The changes would also ensure that the regulatory criteria for practise on own account (POOA) applications more accurately reflect the applicant's intended mode of practice and would allow the Law Society to respond to regulatory risk by imposing bespoke conditions on lawyers' practising certificates.

2. **Create greater flexibility in the regulatory regime.** In addition to disclosure of complaints information, the proposed changes would allow for flexibility in the orders that can be made by Standards Committee, particularly in relation to fee complaints and apologies.

3. **Ensure that resource within the regulatory framework is appropriately allocated.** This will be achieved by amending the types of Standards Committee decisions that are amenable to review by the LCRO.

4. **Address inconsistencies in the regulatory regime.** It is important to resolve inconsistencies where these result in outcomes that were unlikely to be intended.

Details of the proposed changes

More information about each proposed amendment is set out below.

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Proposed amendments to orders that can be made by Standards Committees

Why are we proposing these amendments

Standards Committees are independent committees established under the Act, which are responsible for inquiring into, investigating, and making decisions in respect of complaints made about lawyers and for undertaking own motion investigations. The Act is prescriptive in terms of the orders a Standards Committee can make. The proposed amendments address two common circumstances for which the most efficient or effective response is not available under the Act.

Amendment to enable a Standards Committee to order a practitioner to adjust their fees without first making an unsatisfactory conduct finding

Under s 156(e)-(g) of the Act, a Standards Committee can make orders to reduce fees but only if there is first an unsatisfactory conduct finding against the lawyer. The current legislative framework can create a barrier to resolving constructively legal consumer concerns in a way that is proportionate to the consequences for the lawyer involved. This is because legitimate *consumer* concerns about the level of fees can only be addressed where the *conduct* threshold under the Act is met. That threshold is significant and has regulatory consequences for the lawyer complained about. Although lawyers may not object to their fee being reduced by the Committee, they sometimes do object to a finding against them on their record. This can create a situation in which:

- to adjust fees that are the subject of a complaint, a Standards Committee first has to impose a finding of unsatisfactory conduct against a lawyer;
- clients and lawyers with a genuine dispute over fees that does not raise conduct concerns in relation to the lawyer are then engaged in a formal process to try and resolve their dispute because the lawyer does not want an unsatisfactory conduct finding imposed on them; and
- the lawyer then seeks review of an unsatisfactory conduct decision to the LCRO even though they may have been happy to agree to a lower fee.

An amendment to allow a Standards Committee to order a practitioner to adjust, cancel or refund a fee, in appropriate cases, without imposing an unsatisfactory conduct finding would ensure that outcomes for lawyers responding to fee complaints are proportionate to the nature of the complaint. It would also have a positive impact on the consumer as there would be fewer barriers and less delay to resolving an issue with the fee. The proposed amendment would also significantly reduce the timeframes for fee complaints, as well as the workload of the Lawyers Complaints Service's specialist Costs Standards Committee, and the LCRO.

The proposed amendment more closely resembles the process under the former Law Practitioners Act 1982, which had a 'costs revision' regime that was separate from the standard complaints and disciplinary processes.

Amendment to enable a Standards Committee to order a lawyer to apologise to a person other than the complainant.

At present, s 156(1)(c) empowers a Standards Committee to order the lawyer/respondent to apologise to a complainant. However, the Committee is not able to order the lawyer to apologise to any other individual.

Standards Committees undertake up to 100 OMIs each year, many of which relate to a person who is affected by the lawyer's conduct (for example bullying and harassment). The matter may be opened as an OMI because an affected person does not wish to make a formal complaint. Because there is no defined complainant in these investigations, the Standards Committee cannot order the lawyer to apologise to the person affected by the conduct if they decide it is the appropriate course of action in the circumstances.

To allow the position of those affected by lawyers' conduct to be recognised by Standards Committees, it is proposed an amendment be made to this subsection to enable a Standards Committee to order an apology be made to someone other than the complainant.

Details of proposed amendments

1. *A new subsection under s 156 that adopts wording similar to s 157(2) that enables a Standards Committee to order a practitioner to adjust their fees without first making an unsatisfactory conduct finding*
2. *Removing the words "to the complainant" from s 156(1)(c) to enable a Standards Committee to order an apology to a person other than the complainant.*

Proposed amendments relating to the right of review to the LCRO

Why are we proposing these amendments

At present, under ss 194 and 195 of the Act, any "determination, requirement, or order made, or direction given by a Standards Committee" in respect of a complaint or OMI can be reviewed to the LCRO.

This includes decisions by Standards Committees:

- To lay charges with the New Zealand Lawyers and Conveyancers Disciplinary Tribunal (Tribunal).
- To appoint an investigator when inquiring into a complaint or other matter.

Right to review decision to lay charges

The Law Society proposes an amendment to except decisions of a Standards Committee to lay charges with the Tribunal from review by the LCRO. The Law Society's view is that this right of review has unintended consequences, and its inclusion was likely an unintentional drafting oversight, and would not impinge on rights to fair process. The Law Society notes:

- A decision to refer a matter to the Tribunal is not a decision that misconduct has occurred; this is not within the power of the Standards Committees to determine. It is only a decision that misconduct **may** have occurred which is for the Tribunal to determine following the hearing of evidence and cross-examination.

- Reviewing the decision of a Standards Committee to lay charges with the Tribunal is essentially a review of the exercise of a prosecutorial discretion. The LCRO's decision is judicially reviewable, with standard rights of appeal. A lawyer is already able to apply to the Tribunal for strike out of charges laid by a Standards Committee. If unsuccessful in the LCRO, the lawyer can then apply to strike out the charges in the Tribunal on the same basis as were previously determined through the LCRO review process. The availability of a strike out application means that the Act already provides a pathway if a lawyer is unhappy with a decision to lay charges. The right to seek review by the LCRO essentially enables those who exercise it to have two opportunities to bring the same arguments.

The impact of this loophole on the workload of the LCRO and the ability of the Tribunal to expeditiously determine cases has a detrimental effect on complainants.[1] Witness availability and recollection can be adversely impacted by delay in bringing any matter to prosecution, and there is a significant impact on witnesses and affected parties as well as trust and confidence in the legal profession.

Review appointment of investigator

Under s 144 of the Act a Standards Committee may formally appoint an investigator to investigate the facts of the matter before the Committee. Appointment of an investigator is a procedural matter only and not a determination of the practitioner's conduct. Currently, the decision to appoint is reviewable to the LCRO.

Standards Committees appoint investigators in less than 1% of complaints or OMIs[2] – this power is exercised rarely and is generally reserved for the most serious matters after careful consideration. Reviewing the appointment of an investigator delays progress of the complaint, meaning the parties (and witnesses) are left in limbo pending review of what is a procedural decision only. This sometimes hinders any future investigation as evidence can be weakened with time.

Removing the ability to seek review of a decision to appoint an investigator would not prevent either party from reviewing the Committee's final determination and raising any issues related to investigator appointment through that established process. This is because procedural issues related to the Standards Committee process are specifically within the scope of an LCRO review.

Details of proposed amendments

1. *A new subsection under s 194 (complaints) and s 195 (inquiries) confirming that the ability to review a decision to the LCRO does not apply to any determination made by a Standards Committee under s 152(2)(a) to lay charges in the Tribunal*
2. *A new subsection under s 194 (complaints) and s 195 (inquiries) confirming that the ability to review a decision to the LCRO does not apply to any appointment made by a Standards Committee under s144*

[1] Although the LCRO's timeframe for concluding reviews of decisions by Committees to lay charges in the Tribunal are the shortest of all complaint types (199 days on average compared with 310 days on average across all LCRO decisions), this still adds more than half a year to the total duration of the disciplinary matter. The delay was noted by the Tribunal itself in 2015: LCDT-2015-annual-report.pdf

[2] Between 1 July 2024 – 30 June 2025, 1, 363 complaints were opened. Only nine investigations were commenced over this same period.

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Proposed amendments to s 188

Confidentiality restrictions around the Lawyers Complaints Service process are found in s 188 of the Act.

Consultation undertaken by the Law Society in 2021 and 2022 included proposed amendments to s 188. These provisions were not included in the current RSAB.

The Law Society considers those earlier proposed amendments to be important and intends to pursue them as part of any broader amendment of the Act. However, in the meantime, the Law Society wishes to consult on more limited amendments to s 188 which would allow for some flexibility in the disclosure of information about complaints.

Why are we proposing these amendments

These proposed changes will enable the Lawyers Complaints Service to disclose information relating to a complaint in specific and limited circumstances that are additional to those currently permitted under s 188.

Amendment to enable disclosure of complaint information to a person or people affected by the conduct.

This amendment would ensure affected persons can be informed about the progress of a complaint or OMI even if they do not wish to have the formal status of a complainant. At present, an affected person (who does not want to be a complainant) is not permitted to receive procedural information about the status of the complaint or inquiry, while a complainant receives the lawyer's response to the complaint, any investigator's report, the Committee's determination, and other substantive material about the complaint. This results in scenarios in which an affected person may have a legitimate interest in the progress and outcome of a complaint (or OMI) but finds the complaints system lacks transparency due to the Lawyers Complaints Service' inability to provide relevant information.

At present, a Standards Committee may consider issuing a limited publication order to the affected person so they can receive the determination. However, this is at the discretion of the Committee and only applies to the final determination, not to other complaint information.

Amendment to s 188(2)(e) to clarify the ability of the Law Society to disclose complaint information to staff of other agencies carrying out a regulatory or law enforcement purpose acting in the performance of their duty.

Currently s 188(2)(e) only specifies Police and the Serious Fraud Office (SFO) as able to receive information about complaints and OMIs. The proposed amendment would clarify the ability of the Law Society to disclose complaint information to a wider range of regulatory bodies.

The current provision was drafted at a time when the Law Society's regulatory interactions were with Police and SFO, but this is no longer the regulatory environment the Law Society operates in. For example, scenarios now arise where the Law Society may consider it appropriate to disclose complaint information to other agencies, such as the Department of Internal Affairs on potential non-compliance with AML requirements. The AML legislation was amended in 2022 to enable disclosure to regulatory bodies including the Law Society and s 188 should also be amended to ensure the provisions are consistent.

A relatively straightforward amendment to s 188(2)(e) could be made to ensure complaints information can be disclosed to regulators and law enforcement agencies that the Law Society has a legitimate interest in interacting with in respect of regulatory matters. As it is difficult to predict which regulatory agencies will have a genuine need to receive complaints information in the future, it is considered preferable for the provision to be expressed generally rather than naming additional specific agencies. Protection for lawyers (and complainants) would be achieved by reinforcing that this disclosure could only be for the purpose of the receiving agency acting in the performance of their duties.

Details of proposed amendments

1. *Amend s 188(2) to permit disclosure to affected persons (with a corresponding definition of "affected person" required).*
2. *Amend s 188(2)(e) to clarify that complaints information can be disclosed to any agency carrying out a regulatory or law enforcement purpose acting in the performance of their duty.*

Proposed amendments to address inconsistencies in Part 7

Why are we proposing these amendments

Under the Act when lawyers are subject to a complaint, certain related people (as defined in s 6 of the Act) are required to be provided with information at different points in the process.

At present, due to the drafting of ss 149, 153(3) and 158/194, there is an anomaly between the information required to be given to employers, partners and fellow directors of a lawyer responding to a complaint at the time the complaint was made and the information required to be given to employers, partners and fellow directors at the time of the conduct in question.

Both groups receive a copy of any investigator's report and may make submissions on a complaint, but unlike the employers, partners or fellow directors of the lawyer at the time the complaint was made, the employers, partners or fellow directors of the lawyer at the time of the conduct are not permitted to receive a copy of the determination and have no right to seek review.

Similar inconsistencies arise in respect of OMIs under ss 149, 153(4) and 158/195.

This appears to be an error in the drafting of the Act. There does not appear to be any cogent policy reason why the two groups' rights to receive the determination would differ, or why one group would receive some but not all information.

Details of proposed amendments

1. *Amend s 194(2)(c) to mirror the language of s 153(3)(c), namely to refer to "a person who, or body that, is or was, in relation to the person in respect of whom the complaint was made, a related person or entity".*
2. *Amend s 195(2)(b) to mirror the language of s 153(4)(b), namely to refer to "a person who, or body that, is or was, in relation to the person to whom the inquiry relates, a related person or entity".*

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Practise on own account criteria

Why are we proposing these amendments

We have received feedback from the profession on the POOA process. There is a perspective that some barriers to POOA can disproportionately affect certain groups more than others. The March 2023 Report of the Independent Review Panel established by the Law Society recommended that the Law Society look at the minimum legal experience requirement to determine whether it was still fit for purpose.

The POOA process needs to balance flexibility with consumer protection. Any changes made to the regulatory regime to ensure that the POOA process does not discriminate against certain groups must not undermine regulatory parameters that are there to protect consumers.

We propose amending the Lawyers and Conveyancers Act (Lawyers: Practice Rules) Regulations 2008 (the Practice Rules) to better reflect the risk posed by different modes of POOA (sole practitioner with a trust account, sole practitioner without a trust account, partner or director, barrister sole) and enable adequate consumer protection tailored to the risk posed by the lawyer's intended mode of practice. This proposal reflects the realities of legal practice and ensures the regulator is appropriately responding to risk.

This proposed change to the minimum legal experience requirement would mean that a minimum level of experience continues to be required but the amount is adjusted to meet the regulatory risk posed by different modes of practice. This may mean that the minimum experience requirement for different modes of practice could be higher or lower than the current requirement. Lawyers who are approved in a "low-risk" mode of practice would be required to continue in that mode for a period before switching to another higher risk mode to ensure risk was managed (for instance, a practitioner who is approved to POOA as a barrister would be required to practise in that mode for sufficient time before changing to practise as a sole practitioner with a trust account to meet the experience requirements of that new mode of practice).

Details of proposed amendments

1. *Amend regulations 3(1) and 12 of the Lawyers and Conveyancers Act (Lawyers: Practice Rules) Regulations 2008 to prescribe minimum legal experience requirements for specific modes of practice*

Bespoke conditions on lawyer practising certificates

Why are we proposing these amendments

We propose an amendment enabling the Law Society to impose bespoke conditions on a lawyer's practising certificate, in appropriate circumstances.

Where necessary to manage regulatory risk, the Law Society relies on asking the relevant lawyer to provide a voluntary undertaking which can be summarily enforceable by the High Court and under Rule 10.5 of the Lawyers and Conveyancers Act (Lawyers: Conduct and Client Care) Rules 2008 (RCCC). However, these require the lawyer's cooperation and cannot be imposed on the practitioner by the Law Society. By comparison, regulation 11 of the Lawyers and Conveyancers

Act (Conveyancers: Registration and Practice) Regulations 2008 (made under the same section of the Act as the Practice Rules for lawyers are made) empowers the Society of Conveyancers to "impose any conditions on a grant of registration that it considers appropriate in the circumstances."[3]

The proposed amendment would essentially formalise the voluntary undertakings regime that is currently utilised in the absence of a conditions power but do so in a way that offers the regulator more flexibility and does not require the consent of the lawyer concerned. It would also give the regulator a nuanced tool to ensure a practitioner is meeting required standards. The consequences for a lawyer who breached a condition of their practising certificate could include referral to the Lawyers Complaints Service. A failure to comply with a condition may also be a consideration when a lawyer applies to renew their practising certificate.

The power would be consistent with comparable overseas legal regulators[4] and other New Zealand professional regulators.[5]

The types of conditions that could be available to the regulator would need to be considered in more detail but could include a condition restricting the lawyer's area of practice or, as is often done currently via undertakings, requiring the lawyer to practise at a certain law practice for a period of time following approval to POOA.

Imposing a bespoke condition on a lawyer's practising certificate can ensure specific risk is addressed in a targeted way, rather than the regulator either accepting the risk and not addressing it or requiring all, or a cohort of, practitioners to meet the requirement when there may not be a specific need for this. The Law Society suggests that the types of conditions that can be imposed would be set out in the Regulations, akin to the Uniform Rules in Australian Uniform Law states.[6]

To ensure members of the public are aware of any conditions on a lawyer's practising certificate, conditions imposed would be listed on the public register of lawyers.[7]

Details of proposed amendments

1. *Introduce a new regulation to allow the Law Society to impose conditions on a lawyer's practising certificate*
2. *Include a further new regulation specifying the types of conditions that the Law Society may impose on as practising certificate*
3. *Amend regulation 10B of the Lawyers and Conveyancers Act (Lawyers: Practice Rules) Regulations 2008 to include any conditions on a lawyer's practising certificate on the public register.*

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[3] Noting at the time the regulation was made, conveyancers' undertakings were not enforceable by the High Court. An amendment to enable undertakings given by conveyancers to be enforceable is included in the RSAB, currently before the House.
[4] Such as the Uniform Law States in Australia and the SRA in England and Wales.
[5] Such as medical regulators under the Health Practitioners Competence Assurance Act 2003.
[6] See for instance, Rule 16 of the Legal Profession Uniform General Rules 2015.
[7] See, for example, section 67(4) of the Legal Profession Uniform Law (NSW) 2014 and regulation 2.1 of the SRA Roll, Registers and Publication Regulations.