

THE HIGH COURT

[2023] IEHC 315
[Record No. 2022/190MCA]

BETWEEN

L.L.

APPELLANT

AND

LEGAL SERVICES REGULATORY AUTHORITY

RESPONDENT

JUDGMENT of Mr Justice Barr delivered electronically on the 14th day of June, 2023.

Introduction.

1. The appellant is a lay litigant. This is her appeal pursuant to s.63 of the Legal Services Regulation Act 2015 (hereinafter 'the 2015 Act'), against a determination of the Review Committee of the respondent (hereinafter 'the Review Committee'), which was notified to her on 5th July, 2022, which upheld a decision of the Authority that a solicitor, who had acted for the appellant in contentious family law proceedings, had provided services of an adequate standard and had not charged excessive fees.

2. Having regard to the fact that the dispute arises out of the provision of services in family law proceedings, the court has tried in this judgment not to refer to any substantive details of the family law litigation, save as where absolutely necessary.

3. While the solicitor's fee note that is the subject of complaint, only related to one set of proceedings, the family law proceedings were but one of a number of separate legal proceedings in which the solicitor acted for the appellant. The family law proceedings at the heart of this complaint, were proceedings brought by the appellant, in which she sought a judicial separation from her husband with consequential maintenance orders in respect of her and her two sons.

4. The appellant is deeply unhappy with the result that she obtained in her separation proceedings. It is her unhappiness with the reliefs that she obtained in those proceedings, that has coloured her strongly held opinion that the solicitor did not provide adequate services when acting for her in that litigation and that she charged excessive fees in the fee note that she presented at the conclusion of the litigation. In this appeal, she maintains that the Review Committee acted in error in reaching the conclusions that it did, which were to

the effect that the solicitor had provided adequate services and had not charged excessive fees.

Chronology.

5. It will be helpful at this stage to set out a chronology of the dates on which relevant steps were taken in the proceedings leading up to this appeal. These can be summarised as follows:

6 th October 2017	Section 68 letter issued by solicitor.
8 th October 2019	Undertaking as to payment of fees signed by the appellant.
28 th , 29 th , 30 th and 31 st May 2019	Hearing of appellant's separation proceedings in the High Court. The hearing is adjourned.
4 th June 2019	Letter from solicitors acting for the appellant's brothers-in-law, referring to proceedings brought by the appellant's sons against them, which were seeking to set aside a purported agreement in relation to ownership of lands.
8 th , 9 th , 18 th and 22 nd October 2019	Resumed hearing of the appellant's separation proceedings against her husband.
6 th May 2020	Judgment of Faherty J. in the family law proceedings.
18 th August 2020	Solicitor presents three fee notes in respect of (a) the family law proceedings (b) judicial review proceedings and (c) criminal proceedings in the District Court. Solicitor sends the appellant a form for referral of the issue of costs to adjudication.
29 th November 2020	Appellant makes complaint to the respondent about quality of services provided by her solicitor and the level of fees charged by her.
4 th February 2021	Admissibility assessment by the Authority – complaint deemed to come within s.51(1)(a) and (b) of the 2015 Act.
2 nd March 2022	Determination of the Authority, rejecting the appellant's complaints against her solicitor.
21 st March 2022	Appellant seeks review of decision by the Review Committee.
9 th June 2022	Review committee met to consider the matter.

5 th July 2022	Parties informed by letter of outcome of review, which upheld the determination of the Authority.
25 th July 2022	Appellant lodges appeal with the High Court against the determination of the Review Committee.

Relevant documentation

6. The most relevant documents to the matters in issue in this appeal are the following:
The letter sent by the solicitor to the appellant on 6th October, 2017 pursuant to s.68 of the Solicitors (Amendment) Act, 1994. The salient part of that letter provided as follows:

"The law requires solicitors, as soon as is practicable after taking instructions, to set out the basis on which the solicitor intends charging. Having taken detailed instruction from you and reviewed the documentation provided, we estimate that our brief fee in this matter will be in the region of €30,000, plus VAT. In addition to the brief fee, if the matter is to proceed to court there will be a daily court attendance fee of €3,500, plus VAT, for each day that the case runs.

As the proceedings have been contentious to date, we believe a number of interim applications may be required, however it is not possible at this stage to provide an estimate of fees for such applications and same will be in addition to any brief fee charged. Please also note that all court attendances will be charged for separately, which will be in the region of €350/€650.

We enclose for your information, an explanatory pamphlet concerning legal charges, published by the Law Society of Ireland, the governing body for solicitors in Ireland. This gives you the relevant information, including the basis of our charges.

Miscellaneous charges in respect of postages, phones, faxes and photocopying will be incurred.

In addition to the professional fee and miscellaneous charges payable to us, there will be items of outlay payable to third parties, such as junior and senior counsel and any experts engaged by this office on your behalf, which must be discharged by you.

It is not possible at this stage to provide an estimate of fees for such experts, however you will be provided with a full breakdown of their fee in advance of the matter proceeding to court."

7. On 8th April, 2019, the appellant signed the following undertaking in relation to the fees that would be incurred at the hearing of the family law proceedings, which were due to commence in the following month:

"I, [name redacted], undertake to discharge all fees due and owing to Comiskey Solicitors and all third parties engaged by them in the above entitled matter, as per the section 68 letter by Sarah Comiskey of Comiskey Solicitors at the outset of this matter.

I acknowledge that Comiskey Solicitors have briefed both junior counsel and senior counsel, as well as a forensic accountant and that I am liable for the fees owed to them for works carried out.

I acknowledge that fees are already outstanding to Comiskey Solicitors, senior counsel, junior counsel and my forensic accountant, Sarah Kearns, for works already carried out.

It has been explained to me that the senior counsel will charge €9,000 plus VAT (brief fee) to deal with my case. It has been explained to me that they will charge €2,500, plus VAT, for every day that it runs before the High Court.

It has been explained to me that the junior counsel will costs €6,000, plus VAT (brief fee) to deal with my case. It has been explained that they will charge €2,000, plus VAT for every day that it runs before the High Court.

It has been explained to me that the forensic accountant will charge in the region of €6,500, plus VAT, however an exact figure cannot be calculated at present.

I understand all of the above and I am happy to proceed."

8. The undertaking was signed by the appellant. It was dated 8th April, 2019. It was witnessed by her solicitor.

9. The appellant alleged that a letter dated 4th June, 2019 from the solicitors acting on behalf of her brothers-in-law in proceedings brought by her sons against them, was relevant to the matters that arise in this appeal. In that letter, the solicitors acting for her brothers-in-law noted that they had been handed two copies of High Court summonses issued on behalf of the appellant's sons against their clients. They stated that they believed that the summonses had been issued in error for a number of reasons, which they set out as follows:

"Firstly, the mediation agreement has never been entered into and your client, through her solicitor at the time, wrote and stated that if the agreement was implemented that she would seek an injunction.

Secondly, we wish to point out that the agreement specifically states that it had to be implemented within 30 days and this was never done. The proceedings are therefore ill founded and in the circumstances unnecessary.

Thirdly, your client was [sic] be perfectly well aware that the agreement was never implemented because [appellant's husband] is still the owner of 40% of the lands at [address given] and still the owner of the farm at [name of farm] containing 45 acres.

Would you please confirm that you will not be proceeding further with this matter."

10. The final relevant document is the fee note that was issued by the appellant's solicitor on 18th August, 2020. It is not intended to set out the entire of the fee note herein. The solicitor charged an instruction fee of €36,000, together with fees ranging from €1,000 to €2,500 in respect of four motions, together with attendance fees of €450 in respect of seventeen separate attendances at the High Court on various dates specified in the fee note; together with attendance fees of €3,200 in respect of each of the days that the action was at hearing before the High Court in 2019. The total of the fees, excluding VAT, charged by the solicitor amounted to €76,500.

11. The remainder of the bill concerned the following outlays: €29,000 in respect of senior counsel, €21,050.00 in respect of one junior counsel; €31,450 in respect of the second junior counsel; €2,900 for the auctioneer; €30,375 in respect of the forensic accountant's fees and €400 in respect of the agricultural valuation. The total of the outlays came to €115,175, excluding VAT.

12. The total VAT chargeable in respect of the solicitor's fees and the outlays came to €43,970.75. This amounted to a total bill of €235,645.75. From that was deducted the sum of €2,725 in respect of payments made previously by the appellant; giving a total outstanding as of 18th August, 2020 of €232,920.75. The fee note issued in respect of the proceedings was in short format, running to just 1.5 pages.

Submissions of the Appellant before the LSRA and the Review Committee.

13. The appellant made numerous detailed submissions to both the LSRA and the Review Committee. It is not necessary to set out each of these *in extenso* in this judgment. It will

suffice to summarise the main complaints that she made against her solicitor. First, the appellant argued that her solicitor had agreed at the outset to charge a fee of €30,000 to represent her in the proceedings. She submitted that in light of that agreement, there was no basis on which the solicitor could properly present her with a fee note at the conclusion of the proceedings in the sum of €235,645.75.

14. Secondly, the appellant claimed that she had never been furnished with any documentation during the preparation and progress of the proceedings. She stated that she was never kept abreast of the fees that she was incurring as the case went along.

15. Thirdly, the appellant submitted that the solicitor had not done a great deal of work on her case, due to the fact that she had been absent from her office, which was a one-person practice, for an extended period on maternity leave. Fourthly, the appellant submitted that she should not be bound by the undertaking which she had signed on 8th April, 2019, as that had been signed by her a very short time prior to the commencement of her judicial separation proceedings, such that she had no choice but to sign the document.

16. Fifthly, the appellant submitted that her solicitor had wilfully withheld the letter from the solicitors representing her brothers-in-law dated 4th June, 2019, and had only presented it to her on the morning of the resumption of the hearing of her action on 8th October, 2019, due to a desire on the part of the solicitor to prolong the proceedings and incur additional fees.

17. Sixthly, the appellant submitted that the fees charged by the forensic accountant were grossly excessive, having regard to the fact that approximately one month prior to the commencement of the action, it had been indicated to her that their fees would be in the order of €6,000, plus VAT.

18. Finally, the appellant submitted that her solicitor had not prepared her case adequately. She stated that that had been remarked upon by various judges at various times. She further alleged that her solicitor and the legal team representing her husband had deliberately prolonged the proceedings, so as to ruin her life. She stated that the outcome of the family law proceedings had been very detrimental to her financial welfare. She stated that she had not got any benefit from the proceedings. In these circumstances, it was submitted that the bill submitted by her solicitor was grossly excessive.

Response of the Solicitor to the LSRA and the Review Committee.

19. It will suffice for the purposes of this judgment, to summarise the response given by the appellant's solicitor to the complaints made against her. First, she submitted that she had never agreed a fixed fee of €30,000 to do the appellant's case. She stated that it had been made clear in the s.68 letter, that her instruction fee would be in the region of €30,000, plus VAT. However, it had been made clear that daily court attendance fees and other attendance fees, plus VAT, would be chargeable, as and where necessary. It had also been clearly stated in that letter that various outlays would be incurred in respect of the retention of counsel and other experts.

20. Secondly, it was submitted that while the appellant was of the view that the solicitor had been retained in relation to a land dispute that had existed between her husband and his brothers, the solicitor denied that she had ever been retained in relation to any such dispute. The solicitor stated that when she was initially retained, she was acting for the appellant in judicial review proceedings regarding a report that had been commissioned in relation to the appellant's children, on the basis of which they had been taken from her custody. They were successful in those proceedings and the children were returned to her custody. She also had to act for the appellant in relation to a criminal complaint that had been made against the appellant by her sister-in-law. Those proceedings were dealt with in the District Court.

21. The solicitor denied that she had not kept the appellant abreast of developments in the case. She accepted that documents had not been sent to her; but stated that that had been done at the request of the appellant, due to a concern on her behalf that her post was being interfered with by her in-laws. She stated that the appellant used to call into her office every Friday for an update in relation to the case; such consultations sometimes taking up to one hour.

22. The solicitor denied that she had deliberately withheld from the appellant, the letter dated 4th June, 2019, from the solicitors acting for her brothers-in-law. She accepted that she had omitted to bring that letter to her attention until the resumption of the family law proceeding; but she stated that it was not relevant to those proceedings. It concerned separate proceedings that had been brought by the appellant's sons, at the behest of the appellant as their next friend, in relation to ownership of a particular field, which was supposed to be transferred to the appellant's brothers-in-law following a mediated settlement of the dispute between her husband and his brothers. However, as pointed out

in the letter, that agreement had never come into force, as it had not been executed within thirty days of completion of the mediation.

23. The solicitor stated that she had attempted to set up an email account for the purpose of furnishing documents to the appellant; however the appellant had instructed her not to do so, as she was not proficient in using emails.

24. The solicitor denied that she had failed to prepare the case adequately for hearing. She pointed out that it had been a highly contentious and complex piece of litigation, involving assets of high net worth. She noted that there had been seventeen pre-trial appearances in court in relation to various applications. She stated that when one had regard to the judgment of Faherty J. delivered in the judicial separation proceedings, it was clear from the terms thereof, that the appellant had achieved a significant financial outcome from the proceedings.

25. In relation to the discrepancy in the fees charged by the forensic accountant, it was pointed out that the increase in fees had been due to the fact that extensive discovery of financial records and accounts had been made by the appellant's husband in advance of the hearing of the judicial separation proceedings. These had had to be examined closely by the forensic accountant engaged on behalf of the appellant.

26. The solicitor pointed out that at the time of presenting her fee note, she had furnished the appellant with a form for the purposes of submitting the fee note to adjudication, if she wished to do so. She had not done that, but had instead made her complaint to the LSRA. The solicitor further pointed out that following presentation of her fee note, a meeting had been held, wherein the appellant had agreed to the discharge of the fees due to the senior counsel and to one of the junior counsel and to discharge of the sum of €30,000, plus VAT, to the solicitor. By agreement, these funds had been deducted from payments that had been received by the solicitor from the appellant's husband, pursuant to the judgment of Faherty J. She stated that the remainder of the funds paid by the appellant's husband, had been held on account, pending resolution of the dispute in relation to the payment of the balance of her fees, and the balance of the outlays incurred on behalf of the appellant.

Determination of the LSRA dated 2nd March, 2022.

27. In a written determination made on 2nd March, 2022, Mr. Martin Clohessy on behalf of the LSRA issued the following brief determination:

"Rationale of determination pursuant to s.60(6) and s.61(6) of the Act.

In making this determination, regarding a complaint of inadequate legal services, I have considered all documentation, including any statement(s) furnished pursuant to s.50(5) to the LSRA. I do not consider that the legal services provided by Sarah Comiskey were of an inadequate standard because she has satisfactorily addressed the allegation raised.

And

In making this determination, regarding a complaint that the amount of costs sought by Sarah Comiskey, in respect of legal services provided, are excessive, I have considered all documentation, including any statement(s) furnished pursuant to s.61(5) to the LSRA. I do not consider that the amount of costs sought by Sarah Comiskey are excessive because she has accounted for the costs and [name redacted] signed an undertaking dated 8 April 2019 to pay her costs."

Determination of the Review Committee.

28. The appellant appealed the determination of the LSRA to the Review Committee. It issued its written determination on 5th July, 2022, the salient parts of which were in the following terms:

"On 9 June 2022, the Review Committee considered all documentation, including the statements submitted in accordance with s.62(5) of the Legal Services Regulation Act 2015.

The committee considered the elements of complaint and noted that you, the legal practitioner, did provide a breakdown of costs in April 2019. The Review Committee reviewed your outlined costs as being reasonable, and the outlays were in accordance with the estimate provided.

Upon a review of documentation provided to the committee, and having considered all submissions made to it, the committee did not find that any service on behalf of you, the legal practitioner, was of an inadequate standard and could not identify any element of the Authority's determination that was incorrect or unjust.

Accordingly, the Review Committee confirmed the authority's determination dated 2 March 2022 as per section 62(5)(a) of the Legal Services Regulation Act 2015, as:

matters separate to the complaint are outside the remit of the Authority and the committee's review. Correspondence considered by the Review Committee including additional correspondence provided in accordance with section 62(5) of the Legal Services Regulation Act 2015, confirm, in the committee's view, that the legal services were not inadequate, nor were costs excessive pursuant to section 60(6) and section 61(6) of the Legal Services Regulation Act 2015."

Submissions on behalf of the Appellant in the High Court.

29. By notice of motion dated 25th July, 2022, the appellant appealed the decision of the Review Committee to this Court. In essence, in both her grounding affidavit sworn on 24th July, 2022 and in her oral submissions at the hearing of the appeal, the appellant restated the grounds of complaint that she had put before both the LSRA and the Review Committee. She contended that the Review Committee had made a mistake when they came to the conclusion that the solicitor had provided adequate legal services and had not charged excessive fees.

30. The appellant complained bitterly how the outcome of the judicial separation proceedings had not been as good as she had anticipated. She stated that her life had been ruined as a result of the combined efforts of the legal representatives engaged by her and those acting on behalf of her husband. She stated that the final straw which would destroy her life, had been the bill that had been presented by her solicitor on 18th August, 2020, charging what she regarded as an exorbitant sum, which was far in excess of anything that she had expected to pay at the conclusion of the proceedings.

Submissions on behalf of the Respondent.

31. On behalf of the respondent, Mr. O'Sullivan BL, submitted that having regard to the nature of the determination made by the Review Committee under the 2015 Act and the terms of s.63 thereof, the appeal brought by the appellant herein, was a limited appeal, being an appeal against error. He submitted that in order to be successful on the appeal, the appellant had to establish that the decision of the Review Committee was vitiated by a significant and serious error, or a series of such errors. He submitted that the appeal herein had not crossed that threshold. In support of that submission, counsel referred to *Fitzgibbon v. Law Society* [2015] 1 IR 516; *Manorcastle Limited v. Aviation Commissioner* [2009] 3 IR 495; *O'Reilly v. Lee* [2008] 4 IR 269; and *Ulster Bank Investment Funds Limited v. Financial Services Ombudsman* (Unreported, High Court, 1st November, 2006).

32. Secondly, counsel submitted that the complaint that had been raised by the appellant with the LSRA, and on appeal with the Review Committee, could only relate to the fees charged by her solicitor, as the complaint had been made against the solicitor under the 2015 Act. It could not include fees charged by third parties.

33. Thirdly, counsel pointed out that the complaint had been deemed admissible under s.51(1)(a) and (b) of the 2015 Act, rather than under the more serious level of misconduct as provided for under the Act. The terms of that admissibility decision had never been challenged by the appellant.

34. Fourthly, counsel submitted that as the appellant's primary complaint related to the level of fees that had been charged by her solicitor and by others retained on her behalf, those were quintessentially matters for adjudication. He submitted that the proper course for the appellant to take, was to submit the bill of costs to adjudication. In this regard, counsel referred to the provisions of s.61(8) and s.61(4) of the 2015 Act.

35. Fourthly, it was submitted that on the documentary evidence that had been before the Review Committee, the fees charged by the solicitor were entirely within the scale of fees indicated in the s.68 letter; therefore, the Review Committee had been entitled to find that they were not excessive.

36. It was further submitted that the Review Committee had been entitled to hold, that on the documentation before it, there was no evidence that the solicitor had not provided adequate legal services to the appellant. This was particularly so, when one had regard to the fact that these had been extremely contentious judicial separation proceedings; at the conclusion of which, the judgment of Faherty J., had awarded the appellant substantial remedies. It was submitted that in these circumstances it could not be argued that the solicitor had not acted prudently and efficiently throughout the proceedings, including by instructing experienced senior and junior counsel to act on behalf of the appellant.

37. It was submitted that in all the circumstances, there was no serious and significant error, or series of such errors, in the determination of the Review Committee. Accordingly, it was submitted that the appellant's appeal should be dismissed.

Conclusions.

38. Complaints against legal practitioners are dealt with under Part VI of the 2015 Act. There are effectively three categories of complaints. Section 51(1)(a) provides for the making of complaints to the Authority by the client of a legal practitioner, where the client considers that *"the legal services provided to the client by the legal practitioner were or are of an inadequate standard"*. Section 51(1)(b) provides for the making of complaints where the client considers that *"an amount of costs sought by the legal practitioner in respect of legal services provided to the client by the legal practitioner was or is excessive"*.

39. The third category of complaint is one made pursuant to s.51(2), which permits any person to make a complaint to the Authority in respect of a legal practitioner where the person *"considers that an act or omission of the legal practitioner constitutes misconduct"*. The term "misconduct" is defined by s.50 of the Act.

40. Here the complaint made by the appellant was deemed admissible under s.51(1)(a) and (b) of the 2015 Act. That admissibility decision was not challenged by the appellant. It cannot be raised at this stage of the action.

41. It appears to the court that the appellant has conflated many aspects of her litigation and the unhappy ending of her marriage and the separate land dispute between her husband and his brothers, in arriving at the conclusion that she has been greatly injured in life and that it was all the fault of the solicitor, who acted for her in the judicial separation proceedings. That view is unfounded both in law and in fact.

42. This Court can only determine the appeal that is actually before it. That is an appeal pursuant to s.63 of the 2015 Act. Section 63(1) provides as follows:

63. (1) Where a Review Committee determines a review under section 62, the client or the legal practitioner concerned may, within a period of 21 days of the notification of such determination or direction to him or her, apply to the High Court for an order directing the Review Committee to rescind or to vary such determination and on hearing such application the Court may make such order as it thinks fit.

43. I accept the submission made by counsel on behalf of the respondent, that such an appeal is an appeal confined to error on the part of the Review Committee. In other words, in order for the appellant to succeed in her appeal, it has to be shown that the decision of the Review Committee is vitiated by a serious and significant error, or by a series of such errors.

44. I have come to that conclusion for the following reasons: first, I hold that the decision of the Supreme Court in *FitzGibbon v. Law Society of Ireland* [2015] 1 IR 516, while dealing with s. 11(1) of the Solicitors (Amendment) Act 1994, is a strong persuasive authority that the appeal provided for under s. 63 of the 2015 Act, is an appeal against error: see in particular the judgements of Denham C.J. and Clarke J.

45. Secondly, the court is satisfied that applying the test set down by Charleton J. in *Manorcastle Ltd v. Commission for Aviation Regulation* [2009] 3 IR 495, this is also supportive of the conclusion that the appeal provided for in s. 63 of the 2015 Act, is an appeal against error. Thirdly, this conclusion is supported by the provisions in the rules of court, which were implemented to give effect to the statutory appeal under the 2015 Act: see O. 53D and O. 84C of the rules.

46. Having determined the nature of the appeal before it, the court must assess whether the Review Committee acted in error in making the determination that it did. I am satisfied that it did not act in error in so doing.

47. I have reached that conclusion for the following reasons: the Review Committee was acting on the written submissions and supporting documentation that was put before it. Having reviewed that extensive documentation, I am satisfied that there was ample evidence before the Review Committee, on which it was entitled to reach the conclusion that the complaint that the solicitor had not provided adequate legal services, was unfounded.

48. There was evidence which supported the contention that the solicitor had acted diligently in pursuing the family law proceedings on behalf of the appellant. The court notes that there had been seventeen pre-trial applications. The solicitor had retained the services of an experienced senior counsel and the services of two experienced junior counsel. She had engaged the services of forensic accountants and other relevant experts, to furnish reports and give evidence on behalf of the appellant at the trial of the action. Thus, it is apparent that she attended to the preparation of the case for hearing, with diligence.

49. The appellant's complaint that she had not been informed of progress in her case, was contradicted by her own statement, wherein she stated that she used to attend at her solicitor's office on a weekly basis to discuss her case and pay €100 towards her costs.

50. Similarly, the Review Committee were entitled to hold that the solicitor had not acted in breach of her duty of care in failing to show the letter of 4th June, 2019, from the solicitors

acting for her brothers-in-law, to the appellant, because that letter was completely unrelated to the appellant's judicial separation proceedings against her husband.

51. The Review Committee were also entitled to hold that the appellant's allegation that her solicitor and the solicitor acting for her husband, had conspired together to deliberately prolong the hearing of the case, so as to obtain more fees, as being without foundation, there being no evidence to support that allegation.

52. That these proceedings were highly contentious between the parties; were of high net value; and were of considerable complexity; is evident from the length of the hearing, which ran to eight days; and from the detailed judgment given by Faherty J. at the conclusion of the proceedings.

53. Having regard to the significant reliefs that were obtained on behalf of the appellant in those proceedings, as set out by Faherty J. in her judgment, I am satisfied that the Review Committee did not act in error in finding that the solicitor had provided adequate legal services in the course of that litigation.

54. Turning to what is in reality the appellant's main complaint, being the allegation that her solicitor charged excessive fees; it is important to note that the committee could only have regard to the level of fees charged by the solicitor in respect of her own fees, as set out in her fee note dated 18th August, 2020. They were not entitled to look at other items of outlay as detailed in the fee note.

55. The appellant did not dispute that she had received the s.68 letter dated 6th October, 2017. The fees charged by the solicitor were in line with the scales of fees as set out in that letter. Accordingly, the Review Committee was entitled to find that the fees charged by the solicitor were not excessive.

56. It is important to note that the Review Committee were not carrying out an adjudication of the reasonableness of the fees actually charged by the solicitor. That is done by a separate mechanism provided for under the 2015 Act, being adjudication by the office of the Legal Costs Adjudicator.

57. Section 61(8) of the 2015 Act provides that where a bill of costs, which has been the subject of complaint under s. 51(1)(b), has subsequently been adjudicated, then, where the Authority has given a direction under s. 61(6), the direction shall cease to have effect, or where a direction has not been given, it shall not proceed to investigate the complaint or otherwise apply the provisions of s. 61. This shows the primacy of the role of the Legal Costs

Adjudicator in relation to the determination of the reasonableness of costs charged by a solicitor.

58. The provision of legal services in connection with litigation is almost unique, in that a service provider, being a solicitor or a barrister, is engaged to act in a matter, when it is not possible to set out definitively what fees will become payable. This is due to the fact that one cannot tell at the commencement of litigation, whether it will be of long, or short duration. It may settle relatively early on in the proceedings, or they may go the whole way to a hearing, with perhaps a significant number of pre-trial applications in advance of the hearing of the action. Even the duration of the hearing itself, can be variable, depending on the way that the evidence is presented.

59. It is for this reason, that legal practitioners are required to present fee estimates to a client in advance of supplying legal services. This at least alerts the client to the range of charges that will be charged by a solicitor, or barrister, for various types of work. That was complied with by the solicitor in this case.

60. At the end of the case, the solicitor did not present a detailed bill of cost to the client. Instead she send a short form fee note, setting out her fees and the other elements of outlay that had been incurred in the course of the proceedings. It is permissible to present a short form fee note, as was done in this case. However, the client always has the right to call for production of a detailed bill of costs that complies with the requirements of s. 152 of the 2015 Act and O.99 of the Rules of the Superior Courts.

61. The client is further protected by the fact that after he or she has received a bill of costs, they can refer it for adjudication, if they are dissatisfied with any of the fees charged in the bill of costs. The time within which the client may refer the matter to adjudication, only runs from receipt of a bill of costs, which complies with the requirements of s. 152 of the 2015 Act and the requirements of O.99 of the Rules of the Superior Courts (as amended by S.I. No. 584 of 2019); see s. 154(7) of the 2015 Act.

62. The court accepts the submission made by counsel on behalf of the respondent, that the appellant's correct avenue of redress in respect of her complaint that she was overcharged by her solicitor, or counsel, or forensic accountant; would be to refer any bill of costs that may be presented by the solicitor to adjudication pursuant to the 2015 Act. Whether that is an avenue that is still open to the appellant, is not a matter upon which this Court has to rule.

63. Insofar as this appeal is concerned, it must be dismissed, as the court is not satisfied that any serious or significant error, or any series of such errors, has been shown to exist in the determination of the Review Committee, as notified to the appellant by letter dated 5th July, 2022.

64. Accordingly, the final order which the court would propose to make in this case would be an order dismissing the appellant's appeal.

65. As this judgment is being delivered electronically, the parties will have two weeks within which to furnish brief written submissions on the terms of the final order and on costs and on any other matters that may arise.

66. The matter will be listed for mention at 10.30 hours on 4th July, 2023 for the purpose of making final orders.