



The Law Society of
Upper Canada

Barreau
du Haut-Canada

September 28, 2015

The Honourable Lise Maisonneuve
Chief Justice of the Ontario Court of Justice
Office of the Chief Justice
1 Queen Street East, Suite 2300
Toronto, ON M5H 2N5

Chief Executive Officer

Osgoode Hall
130 Queen Street West
Toronto, Ontario
M5H 2N6

tel 416-947-3309
fax 416-947-3302

Dear Chief Justice Maisonneuve:

Re: Referrals of misconduct and requests for mentoring regarding lawyers conduct

This will confirm our recent conversation and our continuing understanding regarding the referral of incidents of misconduct to the Law Society of Upper Canada by the Ontario Court of Justice.

In that regard, I am writing to update the 2010 Judicial Complaints Protocol between the Law Society of Upper Canada and the Ontario Court of Justice. That protocol was set out in a letter from my predecessor Malcolm Heins to your predecessor, the Honourable Annemarie Bonkalo.

We confirm that the Ontario Court of Justice may refer to the Law Society matters involving conduct of concern on the part of either paralegals or lawyers. The concern may arise out of proceedings before either a judge, or a justice of the peace of the Ontario Court of Justice. Referrals to the Law Society on behalf of the Court will be made by one of the Associate Chief Justices of the Ontario Court of Justice.

Where the Ontario Court of Justice refers a matter to the Law Society of Upper Canada, the Court will provide an extract of the relevant portions of the transcript reflecting the conduct and comments, if any, made by a member of the judiciary on the Court record at the time. In addition, any reasons by the judge or justice of the peace, copies of any written submissions or other relevant documents may be provided.

The Ontario Court of Justice will not recommend a preferred resolution to the Law Society. It will be left entirely within the discretion of the Law Society to take whatever action it deems appropriate in the circumstances. All referrals to the Law

Society will be made through the Office of the Chief Executive Officer in writing. Contact may be made by mail, email, fax or courier delivery to:

Robert G. Lapper, Q.C.
Chief Executive Officer
The Law Society of Upper Canada
Osgoode Hall
130 Queen Street West
Toronto, ON M5H 2N5

Email: rlapper@lsuc.on.ca
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On receipt of the referral, a regulatory file will be opened with a specific case number and an acknowledgement will be provided to the Office of the Chief Justice. At the file initiation stage, Law Society staff may contact the Office of the Chief Justice to obtain any necessary additional information for this stage of the process.

Referrals will be considered in the context of the lawyer's or paralegal's complaint history. The Law Society will consider whether mentoring is an appropriate disposition of the matter in question, and if not, the matter will be assigned to the Law Society's normal regulatory process.

If mentoring is appropriate, the Law Society will report the conduct of the lawyer or paralegal to a member of the mentoring panel assembled by the Criminal Lawyers' Association, the Advocates' Society, the Ministry of the Attorney General, or as may be otherwise appropriate. Arrangements will then be made for the member of the mentoring panel of the appropriate organization to contact the lawyer or paralegal in question and arrange a mentoring meeting, at which point the conduct will be discussed and the lawyer or paralegal mentored about the conduct in question. The Office of the Chief Justice will be advised the matter was referred for mentoring. The matter will then be considered closed.

Where the matter is considered to be of a regulatory nature, it will be assigned to Complaints Resolution or Investigations depending on the nature of the allegations, the lawyer's or paralegal's history and any other current opened files. The Law Society will keep the Office of the Chief Justice apprised of the progress of matters that have been referred by the Ontario Court of Justice and report on the final disposition of all matters. In the case of those matters that go to hearing or have a regulatory meeting, the Office of the Chief Justice will be advised as to the time and date of the hearing or regulatory meeting in the event a representative of the court wishes to be in attendance.

The Office of the Chief Justice will, in turn, keep the concerned judicial officials of the Court apprised of the progress and/or outcome.

Should the Law Society wish to discuss conduct of concern with a member of the judiciary of the Ontario Court of Justice, such requests must be made through the Office of the Chief Justice and not directly to the judge or justice of the peace.

I believe this letter confirms our understanding of the process for the management of referrals to the Law Society by members of the judiciary of the Ontario Court of Justice.

Respectfully yours,

A handwritten signature in cursive script, appearing to read "R. G. Lapper". The signature is written in dark ink and is positioned above the typed name.

Robert G. Lapper, Q.C.
Chief Executive Officer

cc: The Honourable Peter J. DeFreitas, Associate Chief Justice of the Ontario Court
of Justice
The Honourable Glenn A. Hainey, Superior Court of Justice