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Legal Complaints and Regulation: Follow Up Issues

Key Points

This paper has been produced in response to issues raised by the Finance and Personnel Committee during a previous briefing on the Draft Legal Complaints and Regulation Bill. The questions asked by the Committee were:

- What monitoring is undertaken within other jurisdictions to measure the transparency and fairness of mediation to ensure that both participants are satisfied with the process and outcomes;
- The consistency of approach and the streamlining of complaints procedures including other jurisdictions;
- Whether any other options such as further legal action in the recovery of costs would be prejudiced as a result of compensation being awarded and whether, in instances of malfeasance or malpractice the applicable bodies in other jurisdictions are empowered to refer for further action;
- An analysis of the number and nature of complaints considered in other jurisdictions that were upheld.

Monitoring satisfaction relating to Mediation

In England and Wales, Scotland and the Republic of Ireland there are processes for monitoring. These include the use of satisfaction surveys or customer feedback forms.

Complaints Procedures

In the jurisdictions examined, there is either guidance set by the regulator (Legal Services Board in England and Wales) or basic principles or practice notes provided by professional body in relation to complaints procedures (Law Society in Scotland and Republic of Ireland). In England and Wales, the Legal Service Board has a specified requirement that Approved Regulators such as the Law Society and the Bar Council require the individuals or firms that they regulate to notify their clients of the right to make a complaint, how and to whom this can be done and of their right to complain to the Ombudsman at the conclusion of the complaints process.

Compensation

In the jurisdictions compared, there are arrangements to ensure the possibility of legal action is not prejudiced. In England and Wales, a person may not be able to take action whilst a complaint relating to the same issue is being considered by the Legal Ombudsman. In the Republic of Ireland, the Barristers' Professional Conduct Tribunal will avoid cutting across the jurisdiction of the court and avoid court action in relation to

fees until a result is known. In Scotland, the SLCC takes into account compensation awarded by another body when determining compensation to avoid duplication of compensation for the same issue.

Nature and Breakdown of Complaints Upheld

England and Wales- it has not been possible to get a detailed breakdown of the nature of complaints upheld. However, information is available for the year 2012-13 on the type of resolution by area of law, what the complaints were about and complaints data by remedy type. The largest number of cases dealt with informally related to residential conveyancing followed by family law and wills and probate. The largest number of cases that went to an Ombudsman decision related to family law cases, followed by residential conveyancing and wills and probate. The biggest cause of complaints was as a result of failure to advise particularly in the area of residential conveyancing. This was followed by failure to follow instructions and delay.

Scotland-In 2012-13, the largest business area in relation to upheld complaints was residential conveyancing, followed by family law, executries and wills. The main reasons were failure to communicate, followed by failure to follow instructions. Similar patterns emerged in relation to partially upheld complaints.

Republic of Ireland-Most of the bodies examined provide information on the complaints dealt with rather than the complaints upheld. However, the Solicitors' Disciplinary Tribunal Annual report for 2012 provides information on the subject of complaints where professional misconduct had taken place. The largest category related to conveyancing. An annual report from lay members of one of the bodies that deals with complaints against solicitors (the Complaints and Clients Relations Committee) suggested that a full record of any complaints upheld at any stage of the process should be published.

1 Introduction

This briefing paper has been produced to assist the Committee for Finance and Personnel's scrutiny of the Draft Legal Complaints and Regulation (Northern Ireland) Bill 2014. A number of areas for additional information were identified following a presentation by RaISE on a previous research paper "Comparative Research on Legal Complaints and Regulation" (NIAR 101-14). Information was requested on:

- What monitoring is undertaken within other jurisdictions to measure the transparency and fairness of mediation to ensure that both participants are satisfied with the process and outcomes;

- The consistency of approach and the streamlining of complaints procedures including other jurisdictions; (covering 1st and 2nd tier?);
- Whether any other options such as further legal action in the recovery of costs would be prejudiced as a result of compensation being awarded and whether, in instances of malfeasance or malpractice the applicable bodies in other jurisdictions are empowered to refer for further action;
- An analysis of the number and nature of complaints considered in other jurisdictions that were upheld.

These issues are covered in the following sections.

2 Informal Complaints Handling and Mediation-Monitoring and Evaluating Satisfaction

England and Wales

The Legal Ombudsman completes a customer satisfaction survey with telephone interview and online responses quarterly. This is broken down into lawyers and complainants sections and this highlights how satisfied they are with the Legal Ombudsman's work at Resolution Centre (informal resolution) and Ombudsman decision. Everyone who requests an Ombudsman decision will have been through the informal resolution process, even if they haven't agreed with it.¹

A research report on *Customer Satisfaction Surveys 2012-13* prepared for the Legal Ombudsman considered satisfaction ratings by both complainants and lawyers at resolution centre stage. In relation to complainants, the research found that 85% of complainants rated the importance of the process being fair and impartial as very important. However, satisfaction ratings amongst complainants in relation to the resolution stage, however, were lower, as only 49% of complainants were satisfied that the investigation at the resolution stage was fair and impartial and only 48% were satisfied at the handling of their complaint.²

Similarly, the research found that 84% of lawyers who had complaints made against them rated the importance of the investigation being fair and impartial at the resolution stage as very important. However, satisfaction levels amongst lawyers were lower, with 72% of lawyers satisfied that the investigation stage at the Resolution Centre stage was fair and impartial and 70% satisfied with the handling of their complaint.³

¹ Information obtained from a representative of the Legal Ombudsman via email on 02/07/14

² BMG Research "Customer Satisfaction Surveys 2012-2013: Prepared for the Legal Ombudsman" April 2014, pgs 3 and 4

³ BMG Research "Customer Satisfaction Surveys 2012-2013: Prepared for the Legal Ombudsman" April 2014, pgs 7 and 8

Scotland

The Scottish Legal Complaints Commission (SLCC) monitors satisfaction in relation to mediation via customer feedback forms in relation to both parties.⁴ The SLCC's Annual Report for 2012-13 indicated that, for those who take up the offer of mediation, this is able to resolve the complaint 75% of the time. The annual report also suggested that, in the experience of the SLCC, around three quarters of all mediations produce an outcome that both parties are happy with. The report emphasised that mediation is quicker than the more formal process of investigation. Feedback from complainants and practitioners who have used the service found the service less stressful.⁵

Republic of Ireland

The Law Society of Ireland does not provide any formal mediation service, in the strictest sense of the word but, as part of the investigation process, they concentrate, where appropriate, on complaint resolution. The Law Society conducts surveys of users who are selected at random. The Law Society does not pick out just those whose complaints have been resolved.⁶ Communication from the Secretary to the Barristers Professional Conduct Tribunal indicates that there is no monitoring of Professional Practices Committee decisions; the decisions are not binding on the parties.⁷ Mediation is not a feature of the Barristers' Professional Conduct Tribunal's complaints process which is a formal process.⁸

3 Consistency of Approach and Streamlining of Complaints Procedures

England and Wales

In terms of streamlining complaints procedures, the Legal Services Board (LSB) has set out requirements to be met by Approved Regulators in regulatory arrangements to ensuring complaints are dealt with properly and where required directed to the Legal Ombudsman.⁹ The LSB guidance has a specified requirement that Approved Regulators must require all individuals and entities they regulate to notify all clients in writing:¹⁰

⁴ Information obtained via telephone call with a representative from the SLCC on 30/06/14

⁵ SLCC Annual Report 2012-2013, pg 10 <http://www.scottishlegalcomplaints.org.uk/resources/annual-report-accounts.aspx>

⁶ Information obtained from the Law Society of Ireland via email on 20/08/14

⁷ Information obtained from the Secretary to the Barristers' Professional Conduct Tribunal, via email on 15/08/14

⁸ Information obtained from Secretary to the Barristers' Professional Conduct, via telephone call on 22/08/14

⁹ Information obtained via email from a representative from the Legal Ombudsman 02/07/14

¹⁰ Legal Services Board "First- tier complaints handling: Guidance on first tier complaints handling- Requirements under s112(2) of the Legal Services Act 2007" May 2010

http://www.legalservicesboard.org.uk/what_we_do/regulation/pdf/lsb_first_tier_complaints_handling_requirements_and_guidance_final.pdf

- either at time of engagement or in relation to existing clients at the next opportunity, of their right to make a complaint and how and to whom this can be done, including their right to complain to the Legal Ombudsman at the conclusion of the complaints process, the timeframe and details of how to contact the Ombudsman; and
- at the conclusion of the complaint process of their right to complain to the Legal Ombudsman, the timeframe for doing so and full details of how to contact the Legal Ombudsman.

Other principles in the LSB guidance to Approved Regulators in regulating First Tier complaints include:¹¹

- Customers will have confidence that complaints handling procedures will have effective safeguards and complaints will be dealt with comprehensively, swiftly and appropriate redress where necessary;
- First tier complaints should be convenient and easy to use, in particular for those that are vulnerable or have disabilities;
- They should make provision for complaints to be made by any reasonable means;
- The way in which complaints are dealt with must be transparent and clear in relation to the process, well publicised and free;
- The process should be prompt and fair with decisions based on sufficient investigation of the circumstances;
- Where appropriate there should be an offer of a suitable remedy.

The guidance also places a positive obligation on self-employed barristers when instructed by a solicitor to provide information to consumers on its complaints procedures, it is not enough to simply make the information available. Information about the Legal Ombudsman must also be provided in the same way as for other complaints.¹²

In addition, the guidance highlights that Approved Regulators must be able to identify good practice and address systemic issues in first tier complaints handling. The guidance emphasises that identification requires appropriate monitoring and data gathering systems.¹³

¹¹ Legal Services Board "First- tier complaints handling: Guidance on first tier complaints handling- Requirements under s112(2) of the Legal Services Act 2007" May 2010

¹² Legal Services Board "First- tier complaints handling: Guidance on first tier complaints handling- Requirements under s112(2) of the Legal Services Act 2007" May 2010

¹³ Legal Services Board "First- tier complaints handling: Guidance on first tier complaints handling- Requirements under s112(2) of the Legal Services Act 2007" May 2010

Scotland¹⁴

Complaints procedures at first tier are not streamlined. Basic principles regarding complaints procedures are set by the Law Society:

- Each firm has to have a client relations manager;
- Each firm has to have complaints process or procedure;
- There is a central complaints log but the Law Society does not have the power to inspect this and does not police it;
- Each firm has to signpost clients to the SLCC if not satisfied.

The Faculty of Advocates is a body of independent lawyers who have been admitted to practice as Advocates before the courts of Scotland. The Faculty is divided into stables which have their own internal processes at first tier.

Republic of Ireland

Law Society of Ireland

The Law Society of Ireland has published practice notes on internal complaints procedures which includes a statement which may be useful for firms who wish to have an internal complaints procedure. The statement defines a complaint as *any expression of dissatisfaction that cannot be resolved by the solicitor or fee-earner handling their case or transaction*. The statement also indicates that the terms and conditions of business provide for internal complaints as follows:¹⁵

- The client should bring any issue of concern to the attention of the solicitor or fee-earner handling their case or transaction, and the solicitor or fee earner will make every effort to resolve the issue.
- In the event that the issue is not resolved, the client can avail of this internal complaints procedure.
- To avail of the procedure, the complaint should be made in writing, addressed to [insert name of principal of the firm, or the partner in charge of customer relations in the firm]. If the complaint concerns [insert name of principal of the firm, or the partner in charge of customer relations in the firm], the complaint should be addressed to [insert name of office manager].
- When the written complaint is received, it will be brought to the attention of [insert name of principal of the firm, or the partner in charge of customer relations in the firm, or office manager].

¹⁴ Information obtained via telephone call with SLCC on 30/06/14

¹⁵ <http://www.lawsociety.ie/Solicitors/Practising/Practice-Notes/Internal-complaints-procedure-in-solicitors-firms/>

- The complaint will then be recorded in the firm's Complaints Register.
- The client will be sent a written acknowledgement of the complaint within seven days.
- The relevant file will be reviewed by [principal of the firm, or the partner in charge of customer relations in the firm, or office manager] and he/she will discuss the matter with the solicitor or fee-earner dealing with the case or transaction.
- The client will be sent a full written response within 14 days of the receipt of the written complaint.

Possible remedies included in the practice notes are: an apology from the firm, a commitment that there will be no recurrence of the error that occurred, a reduction or abatement of the bill, notification that the client has the right to make a complaint to the Law Society; and assurance to the client that any unsatisfactory procedures highlighted by the complaint have been corrected.¹⁶

The Bar Council of Ireland

The Bar Council's website contains information for the public on how to make complaints. If a client is unhappy with the standard of service provided by the barrister, they may complain to the Barristers' Professional Conduct Tribunal which is independent of the Bar Council of Ireland. The website suggests that if a client wishes to make a complaint, they should first discuss it with the solicitor who may be able to take up the complaint directly with the barrister and resolve it to the client's satisfaction. If the issue cannot be resolved, the client can contact the Secretary of the Barristers' Professional Conduct Tribunal who will send out a complaint form. The client should make the complaint as soon as possible as a long delay could make it difficult to handle the complaint. A client can complain about a barrister if they have failed to keep proper professional standards, committed any professional misconduct or brought the profession into disrepute. The website also provides information on the complaints remit of the Tribunal, the process for handling the complaint as well as information on appeals against the decisions of the Tribunal.¹⁷

4 Do compensation awards prejudice further legal action?

England and Wales

According to a representative from the Legal Ombudsman, if a person brings a complaint to the Legal Ombudsman, they cannot take a negligence route in relation to the same issue. Similarly, the Ombudsman cannot deal with a complaint if legal action has been initiated in relation to the same issue. However, if the complainant does not

¹⁶ <http://www.lawsociety.ie/Solicitors/Practising/Practice-Notes/Internal-complaints-procedure-in-solicitors-firms/>

¹⁷ http://www.lawlibrary.ie/viewdoc.asp?fn=/documents/barristers_profession/complain.htm&m=1

agree with the Legal Ombudsman's final decision, this would leave them free to pursue the negligence route.¹⁸

Scotland¹⁹

When the SLCC looks at a complaint, it will take into account compensation that would have been awarded by another body. For example, if there had been a court case and compensation was awarded, the SLCC would take this award into account when determining compensation and it is believed that the courts would do the same thing so that the complainant is not getting compensation twice for the same issue. This would not prevent any further legal action but the award would be taken into account. The Faculty of Advocates also consider conduct complaints that have been remitted by the SLCC. Information on the Faculty's complaints procedures suggest that the determination of a complaint is not a substitute for legal action where damages for alleged negligence are claimed.²⁰

Republic of Ireland

Law Society of Ireland

Any award of compensation is without prejudice to the complainant's legal rights. This is provided for in S 8 Solicitors Amendment Act 1994 as amended by insertion by S 39(a) Civil Law (Miscellaneous Provisions) Act 2008.²¹ The provision enables the Law Society to direct the solicitor to pay to the client a sum not exceeding €3,000 or the prescribed amount, whichever is the greater, as compensation for any financial or other loss suffered by the client in consequence of any such inadequacy in the legal services provided or purported to have been provided by the solicitor, provided that any such payment made in compliance with the direction shall be without prejudice to any legal right of the client;²²

Barristers' Professional Conduct Tribunal

The Barristers' Professional Conduct Tribunal does not award compensation but can require payment of specified fees by a barrister or to order the barrister to forego the payment of specified fees.²³ If the Tribunal considers that court action is likely (in

¹⁸ Information received via telephone call with a representative from the Legal Ombudsman on 27/06/14

¹⁹ Information obtained via telephone call with a representative from the SLCC on 30/06/14

²⁰ <http://www.advocates.org.uk/complaintsprocedures.html>

²¹ Information obtained from the Law Society of Ireland via email, 20/08/14

²² See 39(a) Civil Law (Miscellaneous Provisions) Act 2008, available at

<http://www.irishstatutebook.ie/1994/en/act/pub/0027/sec0008.html#sec8>

²³ Disciplinary Code for the Bar of Ireland, adopted by a General Meeting of the Bar of Ireland on Monday 5th July 2010

negligence cases for example), it will avoid cutting across the jurisdiction of the court and will avoid action until the result is known.²⁴

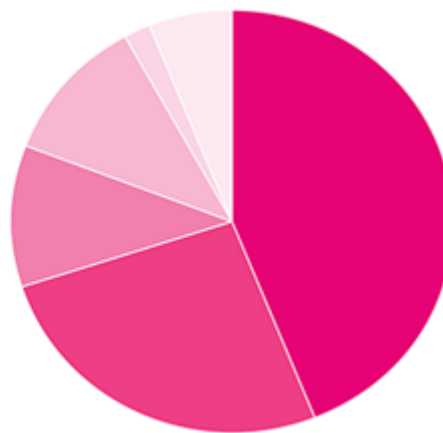
5 Number and Nature of Complaints

England and Wales

Last year the Legal Ombudsman resolved 7,630 complaints about lawyers in England and Wales and had received 71,000 contacts (emails/telephone calls/letters). The graph below highlights how the Legal Ombudsman resolves cases:²⁵

How we resolved cases

- Resolved informally, 44%
- Ombudsman decision - rejected by complainant, 26%
- Ombudsman decision - accepted by complainant, 11%
- Complaint withdrawn by complainant, 11%
- Complainant failed to respond or was unable to continue, 2%
- Ombudsman's decision to dismiss/discontinue, 6%



According to Legal Ombudsman data, in 2012-2013, 533 cases were closed, 722 cases were dealt with by informal resolution and 765 cases were dealt with by Ombudsman decision. Closed cases include complaints that were withdrawn by the person who complained, the complainant did not make further contact or complaints were withdrawn under scheme rules. The largest number of cases dealt with informally by the Legal Ombudsman related to residential conveyancing cases (144) followed by family law cases (134) and wills and probate cases (94), personal injury cases (76) and finance cases (73). The largest number of cases dealt with by Ombudsman decision related to family law cases (127), followed by residential conveyancing cases (123), wills and probate cases (92) and personal injury (75) and litigation (74) (See **Annex A** of this paper).

²⁴ Information obtained from the Secretary to the Barristers' Professional Conduct Tribunal, via email on 15/08/14

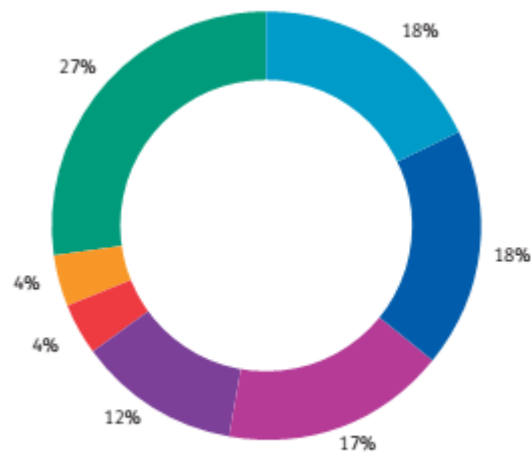
²⁵ Information obtained via email from a representative of the Legal Ombudsman on 02/07/14

The biggest cause of complaints was as a result of failure to advise (18%), particularly in the area of residential conveyancing. The second largest cause of legal complaints is failure to follow instructions (16%), followed by delay (9%), costs information deficient (8.39%) and failure to keep informed (8%). Other causes of legal complaints included: costs excessive (8%), failure to progress (8.03%), potential misconduct (6.45%) and failure to to reply (5%). For further information see **Annex B**.

In relation to informal resolution, in 2012-13, the most commonly used remedy type was to pay compensation for emotional impact or disruption caused (227 cases), followed by no remedy (103 cases) and to limit fees to a specified amount (85 cases), see **Annex C** for further breakdown. In relation to Ombudsman decisions, it was decided in 402 cases that there was no remedy. When a remedy was to be provided, the most commonly used remedy type again was to pay compensation for emotional impact or disruption caused (275 cases) followed by to pay compensation of a specified amount for loss suffered (54 cases) and to limit fees to a specified amount (34 cases), for further breakdown, see **Annex C**.

Scotland

The SLCC annual report for 2012-2013 highlighted that there were 1123 complaints received and provides information on the business areas that attract the most complaints.²⁶ The top six business areas, as shown below, are those which are closely associated with life events such as buying or selling a home or trauma dealing with divorce.²⁷



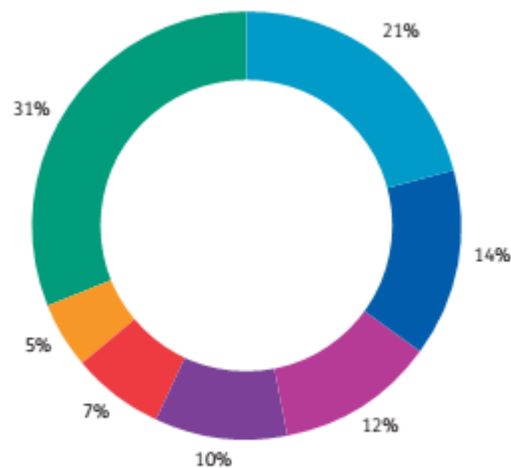
- Litigation 18%
- Family Law 18%
- Residential conveyancing 17%
- Executries, Wills and Trusts 12%
- Crime 4%
- Employment Law 4%
- All other (Less than 2%) 27%

²⁶ SLCC "Scottish Legal Complaints Commission: Annual Report 1 July 2012-30 June 2013" pg 17 and 19

²⁷ SLCC "Scottish Legal Complaints Commission: Annual Report 1 July 2012-30 June 2013" pg 17

A breakdown of SLCC data for 2012-13 showed that communication is by far the biggest reason for legal complaints.²⁸ The breakdown by subject area is as follows:

Breakdown By Subject Area 2012-13



- Failed to communicate effectively 21%;
- Failed to advise adequately 14%;
- Failed to follow instructions 12%;
- Failed to provide information 10%;
- Delay 7%;
- Failed to prepare adequately 5%;
- All other 31%.

The Finance and Personnel Committee asked for information on the number and nature of complaints upheld. The following information has been distilled from raw data provided by the Scottish Legal Complaints Commission for the year 2012-13. The calculations are based on individual determinations broken down by business cases and subject area. The SLCC advised that particularly in the case of subject matters,

²⁸ SLCC "Scottish Legal Complaints Commission: Annual Report 1 July 2012-30 June 2013" pg 18

there will not be a direct one-to-one relationship as a single complaint will generally comprise a number of issues pertaining to different subject matters.²⁹

The largest area of complaints upheld related to residential conveyancing, followed by family law, and executries, wills and trusts. The main reasons were failure to communicate, subsequently followed by failure to follow instructions, failure to provide information and delay **(See Annex D for further information)**.³⁰

A similar pattern emerged in partially upheld complaints as the main business area for partially upheld complaints was residential conveyancing, followed by family law, litigation, executries, wills and trusts. The main reasons were failure to communicate effectively, followed by failure to advise adequately and failure to follow instructions **(See Annex E for further information)**.

Republic of Ireland

The Complaints and Client Relations Committee of the Law Society of Ireland

The Client and Complaints Committee is a standing committee of the Law Society Council.³¹ The Annual Report of the Lay Members of the Complaints and Client Relations Committee 2012-13 provides some data on the number of complaints dealt with. Some of the key points from the report are as follows:³²

- The number of complaints about the levels of fees is down from the previous year by 16% from 100 to 84;
- The number of complaints alleging inadequate professional services has gone up in the past year, from 266 to 314, an increase of 18%;
- Allegations of misconduct concerning those other than undertakings is up from the previous year, from 355 to 430, a rise of 21%;
- There were 1288 complaints about allegations of misconduct in the form of non-compliance with undertakings, compared to 1732 complaints in the previous year, a decrease of 25.6%;
- Complaints regarding undertakings are a major contributory factor in the increase in referrals to the Solicitors' Disciplinary Tribunal. There were 181 referrals compared to 116 the previous year, an increase of 56%.

The Lay Members of the Committee reported that in their submission to the Minister for Justice on the Legal Services Regulation Bill that there was a need for information for potential clients. The Lay Members recommended that some steps should be taken to

²⁹ Information obtained from excel spreadsheet provided by the SLCC via email on 19/08/14

³⁰ Information obtained from excel spreadsheet provided by the SLCC via email on 19/08/14

³¹ <http://www.lawsociety.ie/Global/About%20Us/Annual%20Reports/AnnualReport2013.pdf>

³² Law Society of Ireland "Complaints and Clients Relation Committee: Annual Report of Lay Members Year 2012-13" pgs 9-10 <http://www.lawsociety.ie/Documents/committees/complaints/Lay%20members%20report%202012-2013.pdf>

enable consumers to find out about the complaints record of solicitors and barristers. The Lay Members noted that the Law Society website publishes information on the decisions of the solicitor's disciplinary tribunal and the High Court where misconduct has been established but Lay Members considered this did not go far enough. They suggested that a full record of any complaints upheld in any stage of the process should be published. In addition, restrictions placed on a member solicitor in the context of renewing practising certificates they argued need to be available. Other suggestions included that a member of the public should be able to access a website which lists all the solicitors and sets out their full disciplinary record. The Lay Members also emphasised that none of these recommendations would have an impact unless the public were aware the information was actually available and recommended that means be found to ensure the general public was aware of the information available.³³

Solicitors' Disciplinary Tribunal

The Solicitors' Disciplinary Tribunal is a statutory body and is independent of the Law Society. The tribunal's powers are confined to hearing complaints about professional misconduct against members of the solicitors' profession. The principal role is to determine whether a respondent is guilty of misconduct. The most recent statistics relating to the tribunal's business can be found in its annual report for 2012. The tribunal had 187 new applications, an increase of 32% on applications in the previous year.³⁴ Findings of misconduct were made in respect of 60 applications, but, as multiple applications were made to the tribunal in respect of some respondents, the actual number of individual respondents was 33, of which 20 were referred to the President of the High Court.³⁵

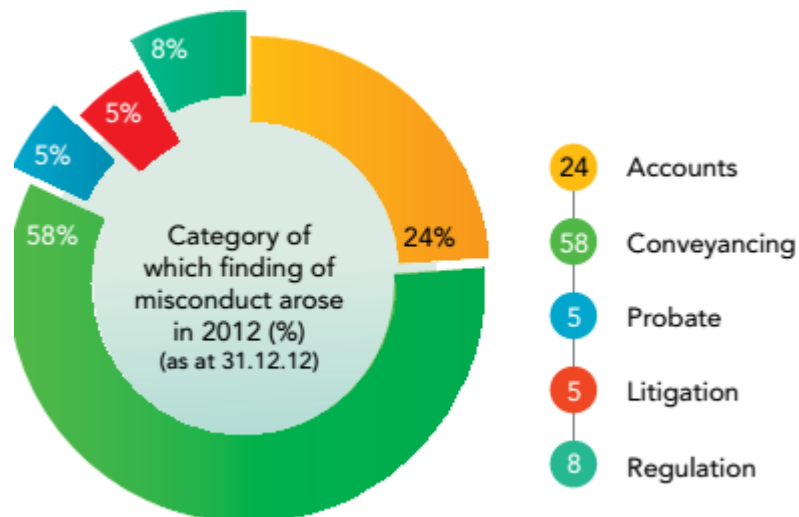
The chart below shows details of the subject matter of complaints, where the tribunal found that professional misconduct had taken place.³⁶

³³ Law Society of Ireland "Complaints and Clients Relation Committee: Annual Report of Lay Members Year 2012-13" pg 19 <http://www.lawsociety.ie/Documents/committees/complaints/Lay%20members%20report%202012-2013.pdf>

³⁴ Solicitors' Disciplinary Tribunal: Chairman's Report 2012. Pg 2

³⁵ Solicitors' Disciplinary Tribunal: Chairman's Report 2012 pg 6

³⁶ Solicitors' Disciplinary Tribunal: Chairman's Report 2012 Pg 13, available at http://www.distrib.ie/documents/Solicitors_Disciplinary_Tribunal_CMS12.pdf



Independent Adjudicator of the Law Society of Ireland

The Independent Adjudicator of the Law Society of Ireland is responsible for ensuring that (a) the Law Society handles its complaints in an efficient and effective manner (b) reviewing the Law Society handling of complaints on its compensation fund and (c) recommending any changes in the Law Society's complaints and claims procedures which are necessary to maintain the highest standards.³⁷

The Independent Adjudicator has published a breakdown of complaints received in her annual report for the year covering the period 1 October 2012-September 2013.³⁸ The Office of the Independent Adjudicator received 136 new requests to examine matters compared to 174 the previous year. 102 complaint referrals were examined and adjudicated. 16 complaints were determined inadmissible for various reasons: ongoing investigation by the Law Society, the complaint had not been referred or investigated by the Law Society in the first instance, the complaint had previously been examined by the Independent Adjudicator or the complaint had been referred to the Solicitors Disciplinary Tribunal.

Adjudications on the 102 complaints examined by the Independent Adjudicator are set out in the table below:

³⁷ Annual Report of the Independent Adjudicator of the Law Society of Ireland, year ending September 2013, pg 2
<https://www.lawsociety.ie/Documents/committees/complaints/IAAnnualReport.pdf>

³⁸ Available at <https://www.lawsociety.ie/Public/Complaints-against-solicitors/Independent-Adjudicator/>

Complaints examined by the Independent Adjudicator by discipline³⁹

Discipline	Number of complaints 2012-13
Conveyancing	15
Civil	23
Probate	28
Family	14
Personal Injuries	14
Employment	8
Criminal	0

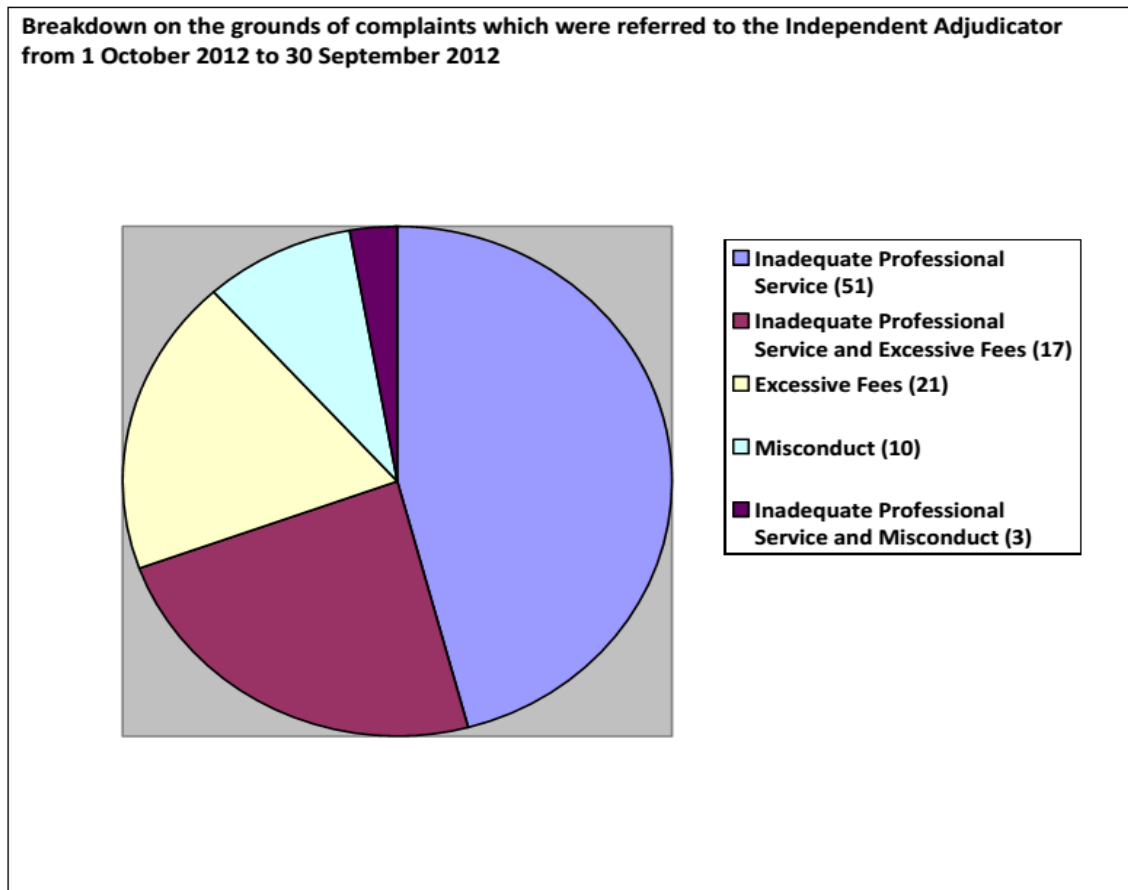
All complaints adjudicated upon fell into one or a combination of three categories: inadequate professional services; excessive fees and misconduct. They were as follows:

- 51 complaints for inadequate professional service;
- 17 complaints for inadequate professional service and excessive fees;
- 21 complaints for excessive fees;
- 10 Complaints for Misconduct;
- 3 complaints for inadequate professional service and misconduct

See the illustration taken from the Independent Adjudicator's annual report below.⁴⁰

³⁹ Annual Report of the Independent Adjudicator of the Law Society of Ireland , year ending September 2013, pg 27

⁴⁰ Annual Report of the Independent Adjudicator of the Law Society of Ireland , year ending September 2013, pg 2
<https://www.lawsociety.ie/Public/Complaints-against-solicitors/Independent-Adjudicator/>



The Independent Adjudicator's annual report does not give a breakdown of the nature of cases upheld, rather those which were referred. The report does provide some useful case studies of adjudicated complaints where the Independent Adjudicator has directed the Law Society to re-examine or re-investigate the complaint made to the Society. These case studies relate to a range of legal disciplines including family law, probate and civil law.⁴¹

Barristers' Professional Conduct Tribunal

The Barristers' Conduct Tribunal Annual Report for 2013 provides some information relating to complaints in the year. There were 120 enquiries from members of the public resulting in 65 complaint forms being sent out. Of those, 50 became new complaints to be investigated by the Tribunal. This is in line with the general upward trend of previous years. There was a significant increase of complaints in 2012 due to one off factors, including multiple complaints concerning alleged non-compliance with CPD regulations. Fifteen cases were carried over from 2012. Twenty of the new 50

⁴¹ Annual Report of the Independent Adjudicator of the Law Society of Ireland, year ending September 2013, pg 31-36
<https://www.lawsociety.ie/Public/Complaints-against-solicitors/Independent-Adjudicator/>

cases related to opposition counsel. In some cases, the complainant may have understood the role of the opposing or prosecution counsel. The next category of complaints (15) alleged that counsel was not following instructions and the third largest category (11) alleged undue pressure to settle. There was only one allegation of dishonesty. Fines of €50,000 were imposed and one barrister was advised about future conduct.⁴²

⁴² Barristers' Professional Conduct Tribunal Annual Report 2013, pg 4

Annex A: Legal Ombudsman Complaints Data 2012-13 on type of resolution by area of law

Legal Ombudsman complaints data 2012-13

Area Of Law Group	CLOSED		INFORMAL		OMBUDSMAN		Total
	Total	%	Total	%	Total	%	Total
Commercial Conveyancing	9	25.71%	13	37.14%	13	37.14%	35
Commercial law	10	33.33%	7	23.33%	13	43.33%	30
Consumer Law	3	42.86%	3	42.86%	1	14.29%	7
Crime	37	27.61%	25	18.66%	72	53.73%	134
Employment Law	18	22.22%	23	28.40%	40	49.38%	81
Family Law	77	22.78%	134	39.64%	127	37.57%	338
Finances	10	11.24%	73	82.02%	6	6.74%	89
Immigration and Asylum	26	27.96%	28	30.11%	39	41.94%	93
Litigation	55	31.25%	47	26.70%	74	42.05%	176
Other	19	37.25%	7	13.73%	25	49.02%	51
Personal Injury	59	28.10%	76	36.19%	75	35.71%	210
Property	21	22.83%	32	34.78%	39	42.39%	92
Residential Conveyancing	99	27.05%	144	39.34%	123	33.61%	366
Social Welfare	14	25.00%	16	28.57%	26	46.43%	56
Wills and Probate	76	29.01%	94	35.88%	92	35.11%	262
Grand Total:	533	26.39%	722	35.74%	765	37.87%	2020

Annex B: What the Complaints were about

What were the complaints about?

2012-13

	Costs excessive	Costs information deficient	Criminal activity	Data protection / breach of confidentiality	Delay	Discrimination	Failure to advise	Failure to comply with agreed remedy	Failure to follow instructions	Failure to investigate complaint internally	Failure to keep informed	Failure to keep papers safe	Failure to progress	Failure to release files or papers	Failure to reply	Other	Potential Misconduct	Grand Total
Commercial Law	11.69%	18.95%	0.00%	0.00%	6.85%	0.00%	16.13%	0.00%	18.15%	2.42%	6.05%	0.81%	4.84%	1.61%	4.03%	1.61%	6.85%	100.00%
Commerical conveyancing	10.45%	9.09%	0.45%	0.91%	5.00%	0.00%	18.18%	0.00%	20.45%	2.73%	4.09%	2.27%	4.55%	5.91%	5.00%	2.73%	8.18%	100.00%
Consumer Law	4.05%	8.11%	0.00%	1.35%	12.16%	0.00%	14.86%	1.35%	14.86%	1.35%	9.46%	0.00%	21.62%	0.00%	6.76%	1.35%	2.70%	100.00%
Conveyancing Residential	5.71%	6.60%	0.20%	1.38%	8.35%	0.16%	26.34%	0.65%	18.72%	2.31%	6.93%	1.30%	4.94%	2.35%	4.82%	2.88%	6.36%	100.00%
Criminal Law	2.65%	3.56%	0.09%	1.83%	4.66%	0.73%	19.74%	0.27%	23.58%	3.11%	8.50%	1.92%	6.22%	6.03%	5.85%	2.93%	8.32%	100.00%
Employment Law	10.25%	10.95%	0.12%	1.88%	5.42%	0.12%	20.61%	0.24%	13.90%	2.00%	8.95%	1.30%	7.30%	2.12%	4.95%	2.83%	7.07%	100.00%
Family Law	11.89%	11.26%	0.03%	2.00%	7.81%	0.18%	18.09%	0.30%	16.31%	2.03%	7.50%	1.03%	7.96%	2.03%	4.24%	2.09%	5.26%	100.00%
Financial Law	6.47%	6.47%	0.32%	1.29%	5.18%	0.00%	11.97%	0.00%	8.74%	2.27%	8.09%	0.97%	8.09%	23.95%	7.44%	0.32%	8.41%	100.00%
Immigration and Asylum	8.68%	6.82%	0.00%	0.93%	6.51%	0.00%	18.45%	0.16%	16.28%	1.86%	8.37%	2.17%	8.37%	6.67%	5.27%	1.86%	7.60%	100.00%
Litigation	10.02%	11.09%	0.00%	1.53%	7.19%	0.17%	18.39%	0.45%	16.07%	1.98%	7.64%	0.96%	8.38%	2.21%	4.92%	2.15%	6.85%	100.00%
Other	8.99%	8.61%	0.19%	0.37%	8.24%	0.19%	13.67%	0.37%	16.10%	3.18%	6.93%	3.00%	9.74%	6.37%	5.62%	3.18%	5.24%	100.00%
Personal Injury	2.79%	4.06%	0.00%	2.00%	12.43%	0.30%	15.52%	0.06%	15.22%	2.61%	11.89%	1.09%	12.43%	3.70%	6.67%	3.09%	6.12%	100.00%
Property	9.26%	8.50%	0.00%	1.78%	8.88%	0.13%	18.40%	0.51%	16.37%	2.41%	6.22%	2.28%	8.76%	4.19%	4.06%	2.92%	5.33%	100.00%
Social Welfare	7.63%	5.92%	0.00%	1.53%	8.97%	0.38%	18.51%	0.38%	16.41%	2.10%	8.97%	0.76%	9.73%	2.29%	6.30%	1.72%	8.40%	100.00%
Wills and Probate	9.55%	8.55%	0.00%	1.12%	13.56%	0.00%	12.20%	0.40%	12.24%	2.65%	10.51%	2.05%	8.27%	2.25%	7.02%	3.05%	6.58%	100.00%
Grand Total	8.27%	8.39%	0.06%	1.54%	8.76%	0.18%	18.19%	0.35%	16.21%	2.35%	8.39%	1.45%	8.03%	3.41%	5.39%	2.56%	6.45%	100.00%

Annex C: Legal Ombudsman Complaints Data 2012-13 by Remedy Type

Legal Ombudsman complaints data 2012-13

Remedy Type	Informal		Ombudsman		Total	%
No remedy	103	20.40%	402	79.60%	505	100.00%
Other	63	73.26%	23	26.74%	86	100.00%
To apologise	54	62.79%	32	37.21%	86	100.00%
To complete work for the complainant	56	87.50%	8	12.50%	64	100.00%
To improve procedures to prevent the problem happening again	6	100.00%	0	0.00%	6	100.00%
To limit fees to a specified amount	85	71.43%	34	28.57%	119	100.00%
To pay a specified amount for expenses the complainant incurred in pursuing the complaint	3	75.00%	1	25.00%	4	100.00%
To pay compensation for emotional impact and/or disruption caused	227	45.22%	275	54.78%	502	100.00%
To pay compensation of a specified amount for loss suffered	60	52.63%	54	47.37%	114	100.00%
To pay for someone else to complete the work	4	40.00%	6	60.00%	10	100.00%
To pay interest on compensation	0	0.00%	3	100.00%	3	100.00%
To pay interest on monies held	1	100.00%	0	0.00%	1	100.00%

Annex D: Scottish Legal Complaints Commission Complaints upheld by Business Area and Subject, July 2012 – June 2013

	Employment Law	Executries, Wills and Trusts	Family Law	Litigation	Medical Negligence	Residential Conveyancing	Other	All
Failure to communicate effectively		1	4	1	1	3	4	14
Failure to follow instructions	2	2	2		1	2	4	13
Failure to provide information		1	2	2			2	7
Delay			1	1	1	1	3	7
Failure to advise adequately		1	1			3	1	6
Unsatisfactory professional conduct - solicitor		2			1	1		4
Failure to prepare adequately	1					1	2	4
Fees		1	1	1				3
Breach of practice rules		1			1			2
Legal aid			1					1
Bias							1	1
Decision - inadequate reasons/explanation							1	1
Complaint handling inadequate							1	1
Legal advice inadequate/poor						1		1
Breach of code of conduct - solicitor,					1			1
Professional misconduct - solicitor					1			1
<i>No. of complaints upheld</i>	2	4	4	2	2	6	8	28

Source: Information taken from raw data provided by the SLCC via email on 19/08/14

Note: The majority of complaints were made based on more than one subject and so figures do not sum to the total number of complaints

Annex E Scottish Legal Complaints Commission Complaints partially upheld by Business Area and Subject, July 2012 – June 2013

	Crime	Employment Law	Executries, Wills and Trusts	Family Law	Litigation	Medical Negligence	Residential Conveyancing	Other	All
Failure to communicate effectively	4	5	4	12	7	4	17	7	60
Failure to follow instructions	1	3	4	10	3	3	8	3	35
Failure to provide information	1	4	4	7	4	2	9	3	34
Delay		2	4	5	4	2	3	6	26
Failure to advise adequately	3	3	1	11	5		10	3	36
Unsatisfactory professional conduct - solicitor	1		1	3	1		1		7
Failure to prepare adequately		1	1	5	2	1	2		12
Fees	2	1	5	4	2	1	2	2	19
Legal aid	2				2	1	1		6
Bias					1				1
Decision - inadequate reasons/explanation					1				1
Complaint handling inadequate				1			2	1	4
Legal advice inadequate/poor				1	2			1	4
Breach of practice rules		1		1	1				3

	Employment	Executries, Wills	Family	Litigation	Medical	Residential	Other	All
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	Crime	Law	and Trusts	Law		Negligence	Conveyancing		
Breach of code of conduct – solicitor		1	1	1	1		1		5
Professional misconduct – solicitor				1	1				2
Negligence				1					1
LDU					1		1		2
Conflict of interest						1	1		2
Financial			1						1
Record keeping				1			1		2
Appointments - not kept/refused								1	1
Evidence - ignored/missed				1					1
<i>No. of complaints upheld</i>	5	6	7	19	10	5	19	11	82

Source: Information taken from raw data provided by the SLCC via email on 19/08/14

Note: The majority of complaints were made based on more than one subject and so figures do not sum to the total number of complaints