



From: The Chief Executive

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Dear Shane

RE: DRAFT LEGAL COMPLAINTS AND REGULATION BILL (NI) 2013

Please find attached Law Society of Northern Ireland's submission in response to the consultation of the Department of Finance & Personnel to the draft Legal Complaints and Regulation Bill (Northern Ireland) 2013.

Yours sincerely



Afan Hunter
Chief Executive

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Response of the Law Society of Northern Ireland to the draft Legal Complaints and Regulation Bill 2013

- 1.1 This document is to be read in conjunction with Appendix A which sets out in summary our further comments.
- 1.2 All acronyms, initialisms and abbreviations are listed in Appendix B.

SUMMARY OF CONSULTATION ISSUES

Consultees are invited to comment upon the powers available to the Legal Services Oversight Commissioner in Clause 2 of the draft Bill.

- 2.1 The Society acknowledges that the recruitment of the LSOC as provided for in Clause 1(2) is a matter for the DFP. Recommendation 33 of the Bain Report said that the appointment of the LSOC should follow normal public service recruitment procedures, with an appointment panel consisting of a chair provided by the Civil Service Commissioners, an independent lay assessor and a member nominated by the Lord Chief Justice. The Society accepts that recommendation in full and believes that provision should be made for that process in Schedule 1 of the Bill. We consider the Lord Chief Justice should have a consultative role.
- 2.2 Clause 2 (1) (d) to (g) and Clause 2 (2), and (3) are covered generally in Appendix A at 8.3 and 8.4 and we would refer you to those comments.
- 2.3 We wish here to emphasise our concern about the lack of moderating provisions on the LSOC's exercise of those powers. They are shaped in a manner as to encourage their use as a first as opposed to last resort. In particular, the absence of any substantive procedure which would offer the opportunity for action to be taken before a penalty was imposed upon the Society for failing to handle complaints in accordance with a plan, raises significant concerns. We suggest that once the need to implement a remedy is identified, a sufficient time is allowed for implementation and therefore a penalty in default should not be capable of being imposed until after the opportunity to remedy the situation has not been taken and has been lost.
- 2.4 The LSOC should be able to impose a penalty only when it is fair and reasonable to do so and the extent of the penalty must be fair and proportionate.
- 2.5 In relation to the penalty, there should be a power to allow for the reinvestment of such funds into the complaints handling process.
- 2.6 We query the reasoning behind the inclusion of the assets of the professional body as a factor in determining the amount of the penalty. If this factor is to be included then it should be liquid assets only and exclude capital assets. Regard

must be had to the wider obligations undertaken by the professional bodies with regard to its members.

- 2.7 We consider that the professional bodies should have a general right to appeal against the imposition of a penalty by the LSOC to the High Court. We would refer you to the Third Report of the Parliamentary Joint Committee on Human Rights of 26th November 2006 which considered this issue (Chapter 2 on the Legal Services Bill).

Consultees views are welcomed on the provisions in Clauses 3 and 4 that will give the Commissioner the power to be consulted on future rules/regulations made by the relevant professional bodies, and to potentially examine existing rules relating to the professional bodies.

- 3.1 The Society has no objection to a consultation exercise being conducted in respect of new regulations which it wishes to enact. The Bain Report valued the concept of co-regulation, as does the Society. We co-regulate with a variety of organisations e.g. the Office of the Immigration Services Commissioner (OISC) and Her Majesty's Treasury (HMT) on anti-money laundering legislation and the Financial Conduct Authority (FCA) in respect of professional firms. Where government seeks a review of aspects of the organisation and regulation of the profession it should be done in the usual way by open consultation and assessment. The circumstances therefore in which such a request could be made need to be more clearly defined. There should be continuous consultation with the Society.

Consultees are invited to offer their views on the levy provisions contained at clauses 5-6 of the draft Bill.

- 4.1 Paragraphs 6.2, 7.2 and 7.3 of Appendix A refer for general comments on the levy provisions. We also refer you to our oral submissions to the DFP Committee on 29th January 2014.
- 4.2 The Society is of the view that an efficient and cost effective scheme will be dependent upon effective and transparent consultation by the DFP with the professional bodies on the office of the LSOC from the outset; this includes what its aims are in detail, the projected costs of such an office, the calculation of the level of salary paid to the LSOC and thereafter staff salaries and numbers together with an input into office accommodation, and ancillary expenses.
- 4.3 Discussions are required as to start up costs and the extent to which they will be funded by the government as LSOC is a government appointment. A formula for the expenditure for the set-up of the LSOC office and the levy scheme for the ongoing costs of that office will require to be agreed. It is important that the Society is consulted at the beginning and throughout including on the levy rules. An expensive scheme would ultimately lead to a significant increase in fees to the public as solicitors seek to recover the additional financial burden.

- 4.4 The Bain Report reflected positively on the network of solicitor practices. An expensive scheme will be a heavy burden particularly on small firms as the extra cost of practising is estimated to be around £700 to £900 as set out in 4.7 below).
- 4.5 A reduction in competition, if small firms were to close, can in the end only harm clients and limit access to justice, generally which was not the hoped for outcome when the Bain Review Group proposed the changes.
- 4.6 Clause 6 (4) (b) provides for a consultation on the proportion of the levy payable by each professional body, however this should but does not appear to include consultation on the LSOC business plan and resources required.
- 4.7 We refer you to our comments at 5.4 of Appendix A and the need to keep costs under control. The Society is concerned about the possibility of costs escalating out of control. At present, in Annex C of the consultation document, at page 84, paragraph 5 (ii), the LSOC operating costs are estimated to be in the region of £200k per year. At page 83, paragraph (a), on Solicitors, the overall costs of the scheme are projected to be between £300-£500 extra per annum for each solicitor. We believe the new Solicitors Complaints Committee scheme alone, could cost around £400 per practising certificate with the LSOC costs estimated at between £300 and £500. This means the total costs per practising solicitor for the whole scheme could be between £700 and £900 on top of the current practising certificate costs of £1,100.

Consultees are invited to comment on clauses 8 and 9, and on Part I of the Bill generally.

- 5.1 Clause 8 provides that any publication by the LSOC is absolutely privileged. The Society considers this provision to be too wide. The LSOC should be subject to the same obligations to submit to the laws of defamation as any individual. The LSOC does not require such wide protection to effectively carry out the duties of that office.

Consultees are invited to give views on the manner in which the Bar Complaints Committee and Solicitors Complaints Committee will be appointed and maintained.

- 6.1 We would refer you to our comments at paragraphs 9.1 to 9.5 of Appendix A. We object to the veto of the LSOC on the ability of the Society to recruit and appoint SCC members which is contrary to good, open and transparent recruitment practices. Such appointments will be by way of open, fair and public recruitment of the committee members, along Nolan principles, as recommended by the Bain Report. The Society would expect to consult with the LSOC on the recruitment exercise and in the training arrangements for the Solicitors Complaints Committee, which is sufficient for an oversight function.
- 6.2 We object to the requirement for a two-third lay majority, rather than a bare majority for the reasons set out in paragraph 9.2 of Appendix A. The reduction in solicitor members reduces the pool of expertise upon which the Chair and lay

members can rely, particularly in difficult cases and create logistical problems by heavy reliance on one third of the Committee members.

6.3 We are concerned that a member of the SCC may only be removed for limited reasons as set out in Schedule 3 5 (4)(b) and only with the consent of the LSOC (Schedule 3 5 (6)). We believe that there should be a general power to remove a committee member for inefficiency and/or poor practice. There will be a small pool of members and if there is someone not meeting requirements, then the burden on others increases.

6.4 Consultation with the LSOC should be a requirement for the removal of the Chair of the SCC but we do not accept that the formal consent of the Commissioner should be required before any other member is removed.

Consultee's view are invited in relation to the conditions set out in clauses 14-16 and 31-33 relating to the jurisdiction of the respective complaints committees and the eligibility to make a complaint.

7.1 Clause 31 brings a complaint within the scheme and jurisdiction of the SCC if it relates to an act or omission of a solicitor ("the respondent") in the course of providing professional services. We believe that "the respondent" should include "a firm of solicitors" or refer to "the solicitor or his firm" as clients tend to instruct the firm and not individuals within a firm. It is commonplace that service complaints, and essential that negligence claims, are pursued against the firm, whether incorporated or unincorporated; conduct complaints are prosecuted against an individual solicitor. This should be reflected in this section to allow the determinations to be enforceable against the firm, where appropriate.

7.2 We refer the department to our comments on Clause 34 at paragraph 9.4 of Appendix A.

Consultee's views on the proposed schemes for the procedures for the Bar Complaints Committee and the Solicitors Complaints Committee are welcomed.

8.1 Clause 36 provides that the SCC must make rules for the operation of the complaints scheme. We refer you paragraph 9.5 of Appendix A for our general comment in relation to the provisions of Clause 46 on consultation about the making or changing of rules of the scheme. We believe that the SCC should be required to consult with the Society on any rules made which affect the operation of the scheme, at policy level at the outset and when amendment or change is considered necessary. The Society role should not be consigned to one of a general consultee.

7.2 As the payer, the Society must be able to evaluate the efficacy and efficiency of the proposed rules. The Society would intend in the public interest to include complaints handling as part of its general monitoring of good practice on its visits to solicitors' offices and part of its CPD education scheme.

Consultee's views on the proposed determination provisions available to the respective complaints committees are welcomed.

- 8.1 Clause 38 sets out the determinations. There is no Northern Ireland equivalent to Section 2 of the Compensation Act 2006 in England and Wales (which provides that “an apology, an offer or treatment of redress, shall not of itself amount to an admission of negligence or breach of statutory duty”.) We consider this to be an essential requirement.
- 8.2 The remedies set out in Clause 38 (2) (b) to (8) give power to make orders against “the respondent”, being a solicitor as set out in Clause 49. That makes the remedies personal to an individual solicitor. See our comments at paragraph 10.3 of Appendix A and also paragraph 7.1 above commenting on Clause 31. We consider that it is appropriate that the determinations should be against a solicitor “or his firm”. This is particularly important in the context of a fee reduction under Clause 38 (2)(b)(i), where the bill will have issued from the firm, rather than the solicitor with carriage of the case. It equally applies to an award for negligence or distress and inconvenience.
- 8.3 We do not consider that the remedy for failure to comply with a determination should lie to the SDT. We consider that it is more appropriate that the remedy should be enforceable in civil law as money or other judgment. Referral to the SDT should be reserved for serious levels of misconduct for which professional sanction is as necessary as client redress. Provision should be made for the SCC to refer matters of concern to the Society for action in similar way to the provisions for failure to provide documents under Clause 42.
- 8.4 We wish to comment here on the notification requirements as set out in Clause 37 for convenience. That Clause provides that copies of each determination must be provided to the LSOC, as well as the Society and the parties. We consider this to be overly bureaucratic. We consider this a more appropriate topic for regulation or protocol by agreement to establish the most practical workable scheme.

Consultee's views on these provisions and the scheme for complaints against barristers and solicitors generally are welcomed.

- 9.1 The Society considers that the scheme should be designed to operate in a collaborative environment, to allow for a fast, fair and efficient resolution of complaints. We welcome the provisions that allow for the early resolution of cases and the power to award costs against the parties. We consider that there should be power to delegate certain actions to an individual in the client complaints process (e.g. the Secretary to the SCC) operating under a delegation scheme agreed by the Committee rather than that delegation being limited to a sub-committee. We agree that the scheme should be committee led in relation to determinations, however there may be occasions where certain actions are urgently required and therefore a power to delegate to an individual would assist.

9.2 We note that there is no provision for an appeal process against determinations in the Bill. This is to be determined by rules yet to be drafted. The availability of an effective and proportionate appeal system will be essential to the integrity of the scheme.

Consultees are invited to comment on the Department's Equality Impact Screening exercise at Annex B and its recommendation that a full Equality Impact Assessment of the provisions of the draft Bill is not required.

10.1 We consider that this is a matter for the DFP.

Consultees are invited to comment on the consideration of regulatory impacts at Annex C.

11.1 We consider that the main impact on the profession will be the increase in the costs of regulation and the fact complaints will inevitably rise given the opportunity for compensation under the scheme. We have covered these concerns in paragraph 4.4 and 4.7 above. We are also aware that where there is the possibility of financial penalties, solicitors may seek legal representation which could result in additional costs to them and to the SCC. Although there is provision for costs to be awarded against the respondent and in certain instances, the complainant, it is unlikely that those awards will defer the full costs of the SCC and that there will therefore be an on-going general financial burden on each practising solicitor. We hope that there will be sufficient goodwill within the profession and trust from the public to ensure that the regulatory impact is kept to a minimum.

11.2 We aspire to an effective and transparent complaints scheme that will enhance the confidence of the public in the legal profession. We would hope that the LSOC will operate in an open and fair manner and that the relationship between that office and the solicitors complaints committees and the professional bodies is a positive one.

Law Society of Northern Ireland's response to the Department of Finance & Personnel's Consultation document on the Legal Complaints and Regulation Bill (Northern Ireland) 2013

Introduction

- 1.1 The draft Legal Complaints and Regulation Bill 2013 (the Bill) is the Department of Finance and Personnel's (DFP) outworking of the proposals contained in the report on "Legal Services in Northern Ireland: Complaints, Regulation, Competition" (the Bain Report) published in 2006.
- 1.2 The Bain Group was chaired by Sir George Bain and included lay members and members representing the consumer groups and members of the profession.
- 1.3 The Bain Report, published in 2006 found that Northern Ireland has "... a strong and robust legal profession that has provided good service to customers, offered choice and access to justice but which is not perfect". Based on these conclusions the Bain Report made recommendations on enhanced complaints handling procedures, to strengthen the system in the public interest and, noting the relatively few complaints made about lawyers in Northern Ireland, believed the complaints machinery should be subject to several important changes:
 - The Committee to assess complaints about solicitors was to be functionally separate from the professional body
 - There was to be a lay majority on the Committee
 - Increased oversight to be effected through a Legal Services Oversight Commissioner (LSOC) with wide-ranging powers
 - There should be provision for compensation awards for consumers up to £3,500 for misconduct and poor service and up to £3,500 for professional negligence to be awarded by the Committee.

The Society's Response to the Bain Report

- 2.1 The Society recognised that the recommendations arrived at independently and unanimously by the Bain Review Group comprised were reached by a broad section of informed Northern Ireland opinion and experience.

- 2.2 In accepting the proposals, the Society recorded that implementing the recommendations would present many challenges for the profession, given the small scale of the profession in this jurisdiction. Although the Society had some reservations, it believed that the recommendations could be made workable and had the potential to bring general improvements for clients' interests whilst maintaining the confidence of the profession.
- 2.3 As a demonstration of the Society's commitment to changing the complaints landscape, it undertook to continue reform in a manner consistent with the Bain recommendations.

The Interregnum

- 3.1 Since the publication of the Bain Report in 2006 the political and economic landscape of Northern Ireland has changed with devolution restored in May 2007 just prior to the economic downturn (justice was devolved in April 2010). The downturn has had a huge adverse effect on the Northern Ireland economy across all business sectors including the legal profession.
- 3.2 Local solicitors' offices, the majority of which are SMEs, have struggled to survive in the challenging economic climate, shedding professional and support staff on occasions and putting many on part-time contracts. Pending introduction of this legislation the Society proceeded with its commitment to reforming its Regulations and procedures as far as possible, to comply with the spirit of the Bain proposals in the following ways:
 - In 2008 it introduced the Solicitors (Client Communications) Practice Regulations (SCCPRs). The Regulations provide that when tendering for legal services or at the earliest opportunity on receipt of instructions a solicitor must provide the client, in writing, with details of the work to be carried out, the identity of the person dealing with the case, who to contact if concerned about the work, costs information, or if legally aided, details of the scheme. In addition the solicitors must have a written complaints procedure which is to be provided to the client as soon as concern is expressed about service and maintain a complaints register of complaints and the outcome thereof.
 - All complainants must first complain to the firm to allow the solicitors an opportunity to resolve difficulties directly before raising a complaint with the Society. The Society has developed its website to provide detailed information to the public on its complaints procedures and standards and Regulations. Complaints information and documents are downloadable from the website.
 - It has revised the complaints documents and forms to ensure they clearly explain the extent and limitation of the Society's current powers with respect to complaints, to manage expectations of the process, as recommended by the Lay Observer.

- Through a governance review of its procedures and documents carried out by the Client Complaints Committee, it has tightened the requirements on solicitors to provide adequate and detailed responses to the complaints received. It has continued to take an evidence based approach to complaints, consistent with the approach taken to complaints by the Legal Ombudsman for England and Wales and the Scottish Legal Complaints Commission (These two organisations are tasked with investigating legal complaints in their respective jurisdictions). The objective is to minimise the investigatory time taken in each case and to have as much detailed information as is required to resolve the complaint.
- Every year the Society runs seminars on the application of the SCCPRs, both freestanding and as part of a comprehensive Risk package of seminars through our Continuing Professional Development programme (CPD) to highlight the importance of the Regulations to the integrated operation of a solicitor's business.
- We have promoted the use of quality marks and an increasing number of firms have taken up quality service marks such as ISO 9001 or LEXCEL, which is a quality scheme for solicitors' businesses, franchised by the Law Society of England and Wales.
- The Society itself acquired ISO 9001 in 2010 including the Complaints Department and has successfully been re-inspected in 2013, which has assisted in reviewing practice and procedures within the Department, for the benefit of the public and the profession.
- The Society has maintained an ongoing dialogue with the Lay Observer on matters relating to client service. He spoke at a series of seminars in 2011 and 2012 organised by the Society on client care related issues, allowing solicitors to avail of a lay perspective on complaints.

The outcome of the Society's Work

- 4.1 The introduction of the SCCPRS and the requirement that complaints are dealt with in-house first has had a significant impact on the number of complaints received by the Society. The numbers have dropped significantly in terms of the number of files opened and issues raised.
- 4.2 Where forms have been issued by the Society directly to members of the public, we verify progress by follow-up enquiries to the prospective complainant after one month of the first enquiry. Only a minority of those follow-up enquiries lead to a formal complaint being received at the Society. Most complainants do not respond at all but some acknowledge when matters are resolved.
- 4.3 Many complainants access the complaints information via the Society's website, thus making the process more accessible.

- 4.4 The requirement on solicitors to provide more detailed information and supporting documents when responding to complaints benefits the complainant as they receive all this information for further comment. This has allowed for detailed objective assessment of the issues, which enhances confidence in the process. Further work is being done to help the complainant make the most of the process by submitting all relevant information at the outset of the complaint to the solicitor and subsequently to the Society.
- 4.5 The Client Care seminars for the profession, which encompass many other client focussed issues as well as the SCCPRs, are part of compulsory 3 hours CPD for every solicitor on Client Care and are extremely well attended.
- 4.6 The Lay Observer reports have reflected what he sees as ongoing improvement in the complaints handling by the Society and by the profession as a whole. In his report of "Continuing Progress" (2012) at 1.5 he states "It is my opinion until changes are made in the legislation, there is little further development work of a structured nature that can now be tackled". In his report "Legislation Awaited" (2011) at 2.8 he states "The Law Society appears to me to appreciate and value complaints as a window on how the public see the solicitors' profession, and as a way of enhancing performance on the profession".
- 4.7 The cumulative picture is of an improving complaints experience within the narrow statutory powers that the Society currently has under the Solicitors (Northern Ireland) Order 1976. We believe that these changes incorporated into a new complaints scheme can ensure that the process is effective and efficient.

The Draft Legal Complaints and Regulation Bill (NI) 2013

- 5.1 The Bill is broadly based on the proposals in the Bain Report. In the first instance the Society would wish to make the point that the rationale of the Bain Review Group is to propose continued co-regulation including a role for this by the Law Society as well as other co-regulators, with increased oversight and enhanced lay participation in the process. That proposal is even more valid in 2014 than it was in 2006, having regard to the complaints experience of the last 8 years and the economic situation since.
- 5.2 The Society is committed to the Bain model (properly set up), as a proportionate, efficient and effective response to concerns about any deficiencies in redress mechanisms for the public.
- 5.3 The model will improve the landscape for the public whilst at the same time, if carefully managed, be a financially viable model for a small profession such as exists in Northern Ireland.
- 5.4 The importance of a cost efficient scheme cannot be over-emphasised having regard to the fact that the cost of regulation per member is high on a per capita basis as in this small jurisdiction, the number of members is low, yet the monitoring and regulating costs of the profession have an effect in order for the Society to fulfil its statutory functions:

- There are 530 firms in Northern Ireland, 274 being sole practitioners, 223 being 2-4 partner firms with only 33 firms larger than 5 partners.
 - There are 2162 solicitors in private practice holding practising certificates.
- 5.5 The cumulative costs of practising certificates, compensation fund contributions and insurance is very high and in addition to the normal costs payable by the average SME.
- 5.6 The DFP has assessed the financial impact of the LSOC as between £300-£500 per practising certificate. If that was to prove correct and it may be conservative, it is not inconsiderable additional financial burden to each practising solicitor on top of the additional costs of the SCC scheme.

General Observations

- 6.1 Whilst recognising that as drafted, the Bill broadly follows the model set out in the Bain Report, there are aspects of the Bill about which the Society would have some concerns which we briefly detail below but reserve our position to submit more detailed analysis of the Clauses and Schedules at a later date. The Law Society response to the draft continues to be worked on and further points will be developed in our response to the Department. We shall send a copy of our final response to the Department to the Committee when that work is completed.
- 6.2 In general, the Society would consider that there is a lack of consultation provided for in the Bill on an on-going basis between the Society and the DFP, the Society, the DFP and the Comptroller and Auditor General (CAG), the Society and the LSOC and the Society and the Solicitors Complaints Committee.

The Department of Finance and Personnel

- 7.1 The DFP is charged with appointing the LSOC. We consider that provision for an input from the Lord Chief Justice by way of being consulted on the appointment, as head of the legal profession, would enhance the process. There is no such provision in the Bill as drafted. The exercise should be done on Nolan principles with open advertisement and recruitment processes.
- 7.2 The levy arrangements are a critical part of the Bill and Regulations have to be drafted on the operation of the levy. Whilst there is provision to consult each professional body, on the amount payable by that body, there is no clear provision for consultation on the out-workings of LSOC office in terms of size and staff and location all of which directly affect the costs of the levy to each professional body. The Society would seek to have a more direct and earlier and on-going input into such matters through a consultation procedure and to have included a test for reasonableness on the costs.

- 7.3 The Society does not see the rationale for the reporting obligations on the LSOC on the annual expenditure of that office being confined to the DFP and the CAG before laying the accounts before the Assembly about its funds. There should be a duty also to report to the professional bodies. The funds are provided by the professional bodies and the DFP and CAG should take their views into account at least, when considering the LSOC financial accounts.

The LSOC

- 8.1 We have already mentioned that we consider that recruitment of the LSOC should have input from the Lord Chief Justice.
- 8.2 The ability of the LSOC to recruit staff and professional assistance as set out in Schedule 1.1 should be within an acknowledged test of reasonable expenditure, which practicalities should be agreed with the professional bodies.
- 8.3 The Society has concerns about the mechanisms by which the LSOC may exercise his/her powers. There is no provision for reasonableness or a means for resolving any dispute about the proper exercise of those powers, other than the general default right to seek judicial review. That process is however academic to an extent as, based on the current draft, the Society would be paying for the legal costs of both itself and the Commissioner to test whether there has been some administrative irregularity.
- 8.4 The Society in response to the Bain Report asked for adequate and effective accountability mechanisms to be put in place to ensure the propriety and fairness of the exercise of the functions of the proposed Commissioner, recognising the risks inherent in a singleton post. This requires further consideration.
- 8.5 The provisions in respect of the removal of an incumbent from office as set out in Schedule 1.3(5) does not provide for real practical issues which may arise such as profligacy or mismanagement of the office.
- 8.6 The Society is concerned that the LSOC now has in effect a veto on who can serve on the Solicitors Complaints Committee (SCC). We detail our concerns in 9.1 below.
- 8.7 The Society has concerns about any proposed changes to who can complain under Clause 34. Details are given at 9.4.

The Solicitors Complaints Committee

- 9.1 The Society is concerned that the Bill provides for the consent of the LSOC before the Society can appoint any member of the SCC (Schedule 3.3). The Society notes that this is not part of the Bain Proposals. The Report provided for recruitment on the Nolan principles, including public advertisement and recruitment processes, subject to the scrutiny of the LSOC. We consider this principle should be re-established not least because it is contrary to open Nolan principles recruitment and also because it frees the LSOC to comment

objectively on the operation of the SCC, without concern that the criticism is directed at people to whom he or she gave personal approval.

9.2 The requirement of a two-thirds majority of lay persons to solicitor members now provided for in the Bill was not part of the Bain proposals. We consider that the original proposals were sufficient and the changes will have a negative impact on the proposals for the following reasons:

- The effect of reducing the number of professional members is to increase the burden of attendance on them.
- There could be delays in the process due to non availability of solicitor members on a given date, resulting in cancelled meetings, delays in processing cases and missed targets, resulting in potential fines for the Society from the LSOC.
- An established Committee, with a small number of very regular attendees (as the minority solicitor members will become) can unintentionally result in an over reliance on that established expertise and trust that undermines the independent input of a majority lay Committee, particularly over a five year term of office.

9.3 The Society would be concerned about the limited powers to remove members of the SCC, having regard to the importance of effective and efficient operation of the SCC for public confidence in the scheme and the need to avoid the exercise of powers by the LSOC. The Society considers that if there is to be no change then the term of office should be 3 instead of 5 years.

9.4 The Society has concerns about the absence of prior consultation with it before a request can be made to the Department for an order under Clause 34. Any change to established recognised legal relationships as provided for in Clause 34 risks an adverse effect on the core values of the profession, particularly the client's right to confidentiality, which is essential for clients to have trust in the justice system.

9.5 The Society also notes the absence of a requirement to consult with it before any rules are made by the SCC. The Society considers that any Committee for which it has statutory responsibility should consult with it on any rules made or changed prior to going to publication. The Society needs to work harmoniously with the Committee and needs to ensure that any actions will not create any adverse effects on the delivery of an efficient complaints scheme.

The complaints process and determinations by the Solicitors Complaints Committee

10.1 Clause 31 provides that the complaint relates to the act or omission of a solicitor (the Respondent).

10.2 Clause 35 provides that ability to make a complaint about an act or omission of a partnership or unincorporated body is not affected by any change in membership of that partnership or body.

10.3 Clause 48 (3) (a) and (b) extends the SCC powers to professional services by a professional body. There is no reference to the determinations by the SCC extending to a partnership or unincorporated body, yet Clause 38 provides for the remedies to include compensation, rectification of errors and reductions of costs. Such remedies are generally against the firm, whether corporate or unincorporated on the basis a client went to a firm, not an individual solicitor. We believe this needs amendment, to reflect the nature of the retainer between the client and the firm of solicitors.

The Solicitors Disciplinary Tribunal

11.1 The Society notes the change from a professional majority to a lay majority with a professional Chair. It is anticipated that this change will attract further costs. The Society has to meet the Tribunal costs in full under the Solicitors Order and the additional costs are on top of the costs of the contribution to the levy for the OISC and the costs of the office of the SCC.

Conclusion

12.1 The Society will wish to comment in detail on the provisions of the Bill at a later date to assist in improving the legislation for the benefit of all users. At this point it wishes to emphasise its broad support for the draft Bill but highlight those major issues of concern that will need further discussion.

Acronyms, Initialism and Abbreviations

CAG	Comptroller and Auditor General
CPD	Continuing Professional Development
DFP	Department of Finance & Personnel
FCA	Financial Conduct Authority
HMT	Her Majesty's Treasury
LSOC	Legal Services Oversight Commissioner
OISC	Office of the Immigration Commissioner
SCC	Solicitors Complaints Committee
SCCPRs	Solicitors (Client Communication) Practice Regulations 2008
SDT	Solicitors Disciplinary Tribunal
SMEs	Small and Medium Enterprises
The Bain Report	"Legal Services in Northern Ireland: Complaints, Regulations, Competition
The Bill	Legal Complaints and Regulation Bill 2013