



Northern Ireland
Assembly

Committee for Finance and Personnel

OFFICIAL REPORT (Hansard)

Draft Legal Complaints and Regulation Bill:
DFP Briefing

18 September 2013

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Mr Daithí McKay (Chairperson)
Mr Dominic Bradley (Deputy Chairperson)
Mrs Judith Cochrane
Mr Leslie Cree
Mr Paul Girvan
Mr John McCallister
Mr Ian McCrea
Mr Mitchel McLaughlin
Mr Adrian McQuillan
Mr Peter Weir

Witnesses:

Mr Michael Foster	Department of Finance and Personnel
Mr Oswyn Paulin	Department of Finance and Personnel

The Chairperson: I welcome our first witnesses of the day, Ossie Paulin, departmental solicitor with the Departmental Solicitor's Office (DSO), and Michael Foster, legal adviser. Ossie, do you want to open up with a few comments?

Mr Oswyn Paulin (Department of Finance and Personnel): Thank you, Mr Chairman. I am grateful for the opportunity to speak to the Committee today on the consultation document that contains the draft Legal Complaints and Regulation Bill.

It is perhaps worthwhile outlining how we have got to this stage of the process. The draft Bill is the product of a consideration of aspects of the regulation of lawyers — solicitors and barristers. It was instigated by a report to government by the legal services review group. That group, chaired by Sir George Bain, was tasked by the Department to bring forward firm proposals for the regulation of legal services in Northern Ireland. The catalyst for the review included emerging work in England and Wales, carried out by Sir David Clementi, which ultimately led to the Legal Services Act 2007 in that jurisdiction, and a preliminary consultation by the Department, entitled 'Regulation of Legal Services in Northern Ireland'.

In 2006 the Bain review carried out a lengthy study of the issues relating to the regulation of lawyers in Northern Ireland. It carried out its own consultation, held many meetings and roadshows to gather a body of evidence upon which it based its final recommendations. Bain reported to DFP in late November 2006 to the then direct rule Minister David Hanson MP. The report contained a total of 42 recommendations across the three key headings of complaints, regulation and competition. By far the most developed and detailed of those recommendations came in relation to the complaints handling

arrangements for the legal profession in Northern Ireland and the oversight of those arrangements, although the group did provide a detailed analysis of all aspects in its terms of reference.

The report was welcomed by David Hanson. He noted, however, that, with the likely restoration of devolution, implementation would be more appropriately dealt with by a local Administration. With political discussions ongoing at the time, it was left to the incoming Executive in 2007 to take a first view on the recommendations. The Minister of Finance and Personnel endorsed the thrust of Bain's report and brought a paper to Executive colleagues, which was agreed. Officials appeared in front of the then Committee in late 2007. Work then commenced on the difficult technical task of translating the general policy proposals that were contained in Bain's report into concrete legislative provisions. That work, in itself, took some time and involved further discussions with stakeholders in shaping a draft Bill. Although, in 2009, a Bill was finalised, it did not reach the Executive's agenda for the next stages for a number of reasons. With political developments in early 2010 leading to the creation of a Department of Justice and elections on the horizon in 2011, the project was effectively placed in cold storage at that time. In 2012, the previous Minister of Finance and Personnel tasked officials with examining the Bill that had been prepared before and asked us to do some further policy development work in order to meet a number of issues that he had with the Bill. Further work was carried out. Additional instructions were prepared for legislative counsel. The end result was that a draft Bill and this consultation document were ready for consideration earlier this year. The Bill and the consultation have been approved by the Minister, and the momentum developed for it to be considered both by the Committee and, hopefully, by the Executive quite soon. The plan is for it to be consulted upon until early in the new year, when we will analyse responses and finalise the policy on the Bill with a view to introduction in 2014.

I turn now briefly to the content. Bain's recommendations were not as radical as those in the Clementi report for England and Wales. I will not go into too much detail at this time. The Bain report provides the commentary. However, in general terms, Bain's review found a very different system in this jurisdiction, which, it concluded, merited a very different response to that of England and Wales. It felt that simply adopting a Clementi-type solution to Northern Ireland, which had not experienced the issues that led Clementi to his recommendations in England and Wales, was not an appropriate way to deal with that area of work. For example, the Clementi recommendations were set against the backdrop of a history of regulatory failure, the existence of a complicated regulatory maze and a considerable number of complaints against lawyers. Bain found that none of those factors was prevalent in Northern Ireland. However, his report did consider that there were aspects of the system, mainly in relation to complaints handling, which did not function as well as they could and there were other issues that required some level of change. His recommendations, therefore, were significantly different from those in England and Wales. The key differences were, first, retention of the complaints-handling function with the professional bodies, but subject to a substantial degree of reform, including, amongst other things, a move towards lay majority committees that are chaired by lay persons; enhanced oversight; greater powers for complaints committees; and much greater transparency in the system. Secondly, there should be no requirement for a Legal Services Board-type body to regulate the professions. Bain found that the professional bodies had a reasonably good record of self-regulation. However, he recommended that there should be more transparency and oversight of that function. Thirdly, no changes were needed with regard to competition. Bain found, in general terms, that the current model of solicitors operating in 74 different geographical locations, with access to an independent referral bar, had served consumers in Northern Ireland well and that the creation of alternative business structures in a small jurisdiction risked negative effects on choice and access to justice.

There are other recommendations that encapsulate those main proposals. The report itself provides a useful commentary on the reasons behind the different approach. It is, perhaps, interesting to note that the group reached unanimously agreed recommendations and that a majority of members of the review group were not from the legal profession but included nominees from the Consumer Council, the Federation of Small Businesses, academia and the voluntary sector.

The consultation document and draft Bill that are in front of the Committee today outline those issues once more, and the draft Bill gives effect to many of the Bain recommendations. There are aspects of Bain for which legislative intervention is either inappropriate or unnecessary, but the majority of the proposals, in and around complaints in particular and some other aspects of oversight, are contained in the Bill.

Members will note that this is the first stage of the consideration process of the Bill. Subject to Executive agreement on the policy and the consultation, interested parties will be asked for their views on the Bill over the coming months. The Department is conscious of the fact that considerable time

has passed since Bain's work in this area, hence the desire to hold a formal consultation on the Bill. We will carefully reflect on the responses we receive, and, no doubt, we will be back in front of you to set out an analysis of the consultation when it is concluded, hopefully early in the new year. There is more that I could say on the Bill and the consultation more generally, but, at this point, it may be more useful to answer any questions members have.

The Chairperson: Ossie, thanks very much for your presentation. You actually answered a number of my questions. The complaints handling process appears to take a three-tier approach: solicitors, the Law Society, and the Lay Observer. Has the Department undertaken any analysis to establish the number of complaints in the North? Is it a significant number or not?

Mr Michael Foster (Department of Finance and Personnel): If I may, I will answer that. The answer is quite straightforward. Over the past number of years, the number of complaints against solicitors has actually decreased. Prior to the Bain report in 2006, the number of complaints against solicitors was roughly 300 a year. At that stage, that was considered quite low. For read-across, on a pro-rata basis, the number of complaints against solicitors in Northern Ireland was approximately 50% lower than in England and Wales and Scotland at that time. That figure is now even lower.

Over the past five to six years, the Law Society has been taking steps to address that partly, I think, because of the work that was undertaken by Bain and the Department. It brought forward regulations in 2008 that were entirely linked to the issue of client care by establishing a system whereby anybody who had a complaint against their solicitor could take that through an informal approach with their solicitor in a hope to resolve it. The Lay Observer's reports over the past four to five years have been reasonably encouraging and have shown that the number of complaints against solicitors has dropped off from about 300 a year in 2006 to less than 200 a year, on average, over the past two to three years.

Mr Paulin: There are about 2,200 solicitors in Northern Ireland.

Mr M Foster: Just to give read-across, in the last year for which figures were available, there were approximately 7,500 complaints against solicitors in England and Wales and something like 1,260 against solicitors in Scotland. On a pro-rata basis, that would put the number of complaints in Northern Ireland at 30% to 40% of that figure.

The Chairperson: Are there any trends in the types of complaints being made? Are there specific categories?

Mr M Foster: There are specific categories. The Lay Observer's report details those in each of the various categories. It is probably not surprising that there have been some complaints about, for example, the conveyancing process, particularly in recent years. However, the Law Society's figures on that are also quite low, because it has in place a home charter scheme, which appears to have worked reasonably well in respect of service to its consumers. There are complaints across a variety of different areas, and those are all detailed in the Lay Observer's reports.

The Chairperson: But none really sticks out.

Mr M Foster: No.

The Chairperson: There is a proposal to apply a levy to the profession in order to fund the legal services oversight commissioner's office. Is it envisaged that that will be cost neutral to the public purse?

Mr M Foster: Yes. That is the simple answer. The proposals from Bain, which the Department have endorsed, say that the levy on solicitors and barristers should fully fund any new structures that are proposed under the legislation.

The Chairperson: I think it was Ossie who referred to the groups that were involved in the initial process — the Consumer Council and the Federation of Small Businesses. Have they been consulted in regard to this particular process?

Mr M Foster: Not at this time. To an extent they have, in the sense that, when Bain reported, the Department circulated the report and asked for comments at that time. However, obviously, the

intention is to consult with those and a range of other stakeholders during the consultation process on the draft Bill.

Mr D Bradley: Does the levy cover the commissioner's salary as well?

Mr M Foster: Yes.

Mr D Bradley: So all expenses associated with it?

Mr M Foster: Yes.

Mr D Bradley: OK. I just wanted clarification on that.

The Chairperson: Is there a requirement on solicitors to lodge complaints the Law Society, etc?

Mr M Foster: The process now is that all solicitors' firms in Northern Ireland must, under the 2008 regulations that were enacted by the society, have in place an in-house complaints handling process. Under the system, if you have a complaint against your solicitor, the aim is that it will be resolved in-house. There are situations where in-house complaints handling processes may not work, so, in those circumstances, the complainant can now bring their complaint directly to the Law Society.

Mr Mitchel McLaughlin: On the detail again, in terms of the statistics on complaints, which have dropped to 200-odd in recent years, is that net of the informal filtering process? Are those complaints all recorded?

Mr M Foster: No. At the moment, the complaints that are recorded are the ones that go to the Law Society. I would need to check with the society itself to see whether it has a system in place to record in-house complaints. In a lot of circumstances, a complaint may be fairly trivial or something that can be resolved fairly amicably. The in-house procedure is designed to ensure that that will happen. I also want to make it clear that, before the 2008 regulations, many solicitors' firms had in-house complaints handling procedures in place. The 2008 regulations made it mandatory for all solicitors' firms. So, even before those regulations came into effect, many complaints were resolved fairly quickly in-house. Now that process is there for all complainants, should they wish to use it.

Mr Mitchel McLaughlin: I am sure that it did work to that extent, but, of course, we are blind to those complaints that perhaps should have been processed and, for whatever reason, were not, not necessarily because they were resolved satisfactorily but perhaps because the complainant did not know how to take it any further or press the issue. It appears that there is no information available about either the quantum or the scale of seriousness of the complaints that were dealt with in-house.

Mr M Foster: I think you are right to say that there is an element of that in the process, and Bain identified that as one of the issues. The purpose of the Bill is to address that.

Mr Mitchel McLaughlin: I know; that is what I am saying.

The Chairperson: If there are cases where there are complaints against the same individual on a number of occasions, is there a mechanism — I know that other complaints organisations adopt this — to flag that up within the system?

Mr M Foster: There is. As I understand it, the Law Society keeps a careful eye on complaints coming into the system. Because it is a relatively small organisation — certainly not anywhere near the size and scale of that in England and Wales — there is a certain amount of information symmetry. Because it is such a small jurisdiction, if it picks up on the fact that a certain firm has been complained about on several occasions, the Law Society will examine that. In fact, what the Lay Observer's reports are very useful for is providing the statistical information, in any case, directly to the Law Society. However, my understanding is that the Law Society will keep an eye on it independently of the Lay Observer.

Mr D Bradley: You said that most solicitors are now obliged to have an in-house complaints procedure —

Mr M Foster: All solicitors.

Mr D Bradley: Are they obliged to provide that to members of the public, if requested?

Mr M Foster: They are.

Mr D Bradley: Have you any indication of the percentage of complaints that relate to solicitors' overcharging?

Mr M Foster: I do not. Again, the Lay Observer's reports set out those types of statistics. I can certainly find out that information, probably reasonably straightforwardly. However, when I read the last Lay Observer's report, which I do not have in front of me, nothing jumped off the page at me to indicate that overcharging is a big problem.

Mr McQuillan: We need to regulate solicitors, but I am not sure whether the Law Society is the right means by which to regulate them. How is a solicitor's in-house complaints system advertised? How does a customer who is going to see a solicitor know that there is an in-house complaints procedure if they are not tuned into it? There is never a notice stating what the procedure is.

Off the top of your head, how many solicitors have been struck off for malpractice in the past 10 years?

Mr M Foster: Malpractice is a very different issue to consumer complaints.

Mr McQuillan: Some of it is malpractice leading to complaints from the consumer.

Mr M Foster: I agree. The complaints committee does not deal with conduct; it deals with service in the main. The Law Society deals with conduct matters through its disciplinary tribunal. Off the top of my head, I could not say how many solicitors have been struck off in the past 10 years. However, in the past four or five years, there have been a number of high-profile cases in which two or three solicitors have been —

Mr McQuillan: I can think of one case in the Londonderry and Coleraine area. There were complaints about that solicitor going back six or eight years, but it took a long time to come to a head.

Mr M Foster: You are right in identifying that. A number of solicitors have been struck off. I do not have the precise figures to give you.

The answer to your other question is that, under the 2008 regulations, every client must now be provided with information relating to the in-house complaints procedure of each solicitor's firm. So, whereas you are probably right that, before, there was not anything obvious when you walked into some solicitors' offices, my understanding is that that has now changed and that, in keeping with the 2008 regulations, all solicitors must provide that information to their clients.

Mr Paulin: My experience, as a client of a solicitor, is that, soon after you have first been in, they write to you to set out their terms and conditions. In that letter, they include the complaints arrangements and state that you can bring a complaint against them if you are not satisfied.

Mr Cree: I have two points. Clause 9 envisages the abolition of the Lay Observer post. How is that post currently funded? There is obviously a possibility for a saving.

Mr M Foster: There is a possibility for a saving. It is currently funded by the Department. However, the saving will be fairly miniscule as the budget for the Lay Observer is very modest.

Mr Cree: How modest?

Mr M Foster: It is no more than £20,000 per annum.

Mr Cree: My second point is about the mechanics. In practice, barristers are employed by solicitors, is that right?

Mr Paulin: They are retained by solicitors.

Mr Cree: Does that mean that they are employed by solicitors?

Mr Paulin: No. As with any service, it is employment for services rather than employment by contract. It is a different relationship.

Mr Cree: I am just thinking of the mechanics of trying to get a complaint through against a barrister when it is really a solicitor.

Mr Paulin: Yes; or what about the other way round? The lay person goes to the solicitor, the solicitor engages a barrister and the barrister does not turn up at court for the hearing or something like that. Who will complain? The solicitor can complain to the Bar Council about that, but so can the lay person who he is representing.

Mr Cree: Would that lay person understand that they can make representations to the Bar Council, or would they simply go to their solicitor, who is, in fact, the person who they have employed directly?

Mr Paulin: They could go to either, but the actual complaint against the barrister would be considered by the Bar Council.

Mr M Foster: You have raised an important point. The number of complaints against barristers from members of the public are few and far between. That is partly because of the system that is in place at the moment.

Mr Cree: You cannot get at them; that is right.

Mr M Foster: The idea of this legislation is to bring barrister complaints more into line with solicitor complaints and to have a mechanism in place there for a member of the public to complain directly about the service provided by their barrister, because, by and large, that tends not to happen very often. The barristers may well have a valid point in saying that there are few cases in which their service is called into question. However, the system that we envisage in draft Bill will provide a much more open and easier way for clients who feel that their barrister has not provided a good service to make a complaint about them.

Mr Cree: It is certainly an important point. However, it is hard to see how the Bill clarifies the issue for Joe Public.

Mr M Foster: That will be part of the role of the legal services oversight commissioner (LSOC). Under Bain, the legal services oversight commissioner has a very clear role to make sure that the complaints handling system is accessible to the public. We envisage that, when an LSOC comes into post, that individual will have in place a system whereby getting that message out to members of the public is done and done well.

Mr D Bradley: A constituent of mine recently inquired about the complaints procedure of a solicitors' office. The first point of contact that they spoke to had never heard of it and did not know whether they had one or not. She then came back and told the constituent to write a letter outlining your complaint. The constituent then got a letter back basically refuting the complaint. As far as the solicitor was concerned, that was the end of it. No written outline was given of what the complaints procedure is, how to proceed with it, and so on.

Mr M Foster: Again, the purpose of this legislation is to make that system much more open and transparent. The legal services oversight commissioner will have a very strong role to play in that regard. At the moment, the Lay Observer has a very limited role in complaints handling. Although that role has been performed reasonably effectively over the years, Bain found that much more could be done. The purpose of this Bill is to provide a body such as the legal services oversight commissioner with much wider powers to deal with those types of issues.

Mr Girvan: Thank you very much. My point relates to compensation. There is an upper limit of £3,500 for damages for distress or whatever and the associated financial loss. Was any consideration given to removing that upper limit? Let us be honest: barristers and solicitors do not worry too much about making somebody bankrupt if they have to when it is working the other way. However, if you are trying to take a case against them when they have done something wrong, you cannot get any more than £3,500. Was any consideration given to how that limit could be moved?

Mr M Foster: Just to clarify that, it is not right to say that you cannot get any more than £3,500 against your solicitor or barrister. The purpose of this system is to provide an alternative method of claiming or getting compensation where your solicitor has either been negligent or has provided poor service. Bain's view is that, if the negligence is valued at more than £3,500, it would not be appropriate to go through a reasonably straightforward process such as the complaints committee to receive that type of compensation. In cases where a larger amount of money was at stake, the complainant would have to undertake court proceedings.

At the time, the value of £3,500 was based on the fact that the excess on the master policy for solicitors was set in and around that figure; it has since increased a little bit. The rationale behind it is that if you are dealing with a case that is worth less than that amount, insurers will not be interested because the excess will kick in. In other words, if you go above that figure, you will get into a fairly messy situation whereby insurers will become involved and cases will be fought very vigorously. It was felt that setting a figure at that level would provide a quick, easy and efficient scheme for people who have a rightful complaint against the service, or perhaps the negligent action, of their solicitor to get quick and easy redress without going to court.

The Chairperson: For clarification, Michael: who pays that £3,500?

Mr M Foster: The award would be made against a solicitor or barrister.

Mr Cree: That is just a nuisance value, is it not? It is simply telling people to go away.

Mr M Foster: For some people, £3,500 would be quite a big amount of money.

Mr Cree: It would not be for a solicitor's reputation, however.

Mr M Foster: I do not think that that is entirely correct. The purpose of the system is for it to be much more open and transparent. If a certain solicitor has been found guilty, for want of a better word, of negligence or poor service and is ordered by a complaints committee to pay £3,500, £3,000 or whatever figure, that will have an effect on his or her reputation.

Mr Cree: Only if it is publicised well.

Mr M Foster: The purpose of the legal services oversight commissioner is for that sort of information to be readily available.

Mr Cree: So, all the small ones will be publicised.

Mr M Foster: Potentially, yes. That will be a matter for the legal services oversight commissioner, but the power is there.

Mr D Bradley: Mitchel made a point about complaints that are made to solicitors that do not reach the Law Society. Will they be in the net under this legislation, or will it be only complaints that are received by the Law Society?

Mr M Foster: There are two points to that. First, if a complaint is resolved in-house, there is no need for the scheme developed here to come into effect. If a complaint is resolved to the satisfaction of the complainant and the solicitor, everybody, in theory at least, should be content. Secondly, the purpose of the Bill is to —

Mr D Bradley: In some cases, you have complaints that are unresolved and do not reach the Law Society.

Mr M Foster: The legal services oversight commissioner has a role to play under the new legislation, as we envisage it, by making users of legal services much more aware than they may be now of the redress that is available to them. When an in-house procedure has not worked or has not been satisfactorily resolved, we and the Law Society would expect the complaints committee, which will have a lay majority with lay chairpeople, to address that. Under the current system, criticism has been levelled by people who wonder what the point is of making a complaint because Law Society solicitors, in a majority, will not deal with it in a way that those people might expect it to be dealt with, even though that is, by and large, more perception than reality.

The purpose of the legislation is to make it a lot more user-friendly and more open to complainants to bring their complaint to a lay majority and a lay chair.

Mr D Bradley: Would it not be useful for solicitors to be required to report to the Law Society on complaints made against them and the state, whether they are resolved or referred on to the Law Society or whatever, so that we have an overall picture of all the complaints that are made and how they are dealt with? That would give the oversight commissioner much more information, which would be helpful in improving the whole process and procedures.

Mr Paulin: Do you not have a difficulty as to what constitutes a complaint? If someone phones a solicitor, and there is a mix-up about an appointment or something like that, is that a complaint? If someone comes in and is kept waiting for five minutes longer, and they say to a receptionist that they have been there for some time, is that a complaint?

Mr D Bradley: That could be easily dealt with by confining complaints in those cases to those that have been made formally in writing or in accordance with a solicitor's in-house complaint procedure.

Mr Paulin: You are talking about complaints that are not resolved. If they are not resolved and a complainant is still dissatisfied, I think that it is pretty well known among the public that he/she should go to the Law Society.

Mr D Bradley: It is possibly pretty well known by some, but it is not known by everyone. In some cases, people are intimidated by the power they see in the hands of solicitors, and they do not push a complaint further. It is to help those people in particular.

Mr M Foster: Clauses in the draft Bill relate to notification requirements. They are quite detailed. When, for example, a complaint is excluded from the jurisdiction of the committee or is dismissed, settled, determined, abandoned or treated as abandoned, the committee must notify certain bodies. The legislation sets out the bodies that must be notified, and they include the complainant, the respondent, the Law Society and the legal services oversight commissioner.

The purpose of the Bain report and the draft Bill is to bring things much more out into the open and to make them much more transparent. We expect the types of issues that you raise to be picked up.

Mr Mitchel McLaughlin: The issue is that there is a power relationship. Is there a danger that more significant complaints are simply not proceeded with and, therefore, that the commission is blind to those? Would it not be better to allow the commission to determine whether it would be appropriate to deal with a specific complaint through an internal review or in-house mechanism or through the more formal procedures that are being developed? The commission would determine whether the appropriate approach was an in-house discussion, and it would be able to track complaints through to their resolution.

The problem is the complaints that do not get into the system and are not notified. Disgruntled clients move to another solicitor or whatever, but they have had a bad experience. The system is blind to the fact that they have an unresolved issue, because they have just changed solicitors.

Mr M Foster: On the one hand, I can see where that comes from. On the other hand, it is difficult to force somebody to make a complaint. If somebody —

Mr Mitchel McLaughlin: Sorry. I am talking about simplifying access to a complaints procedure for the public. That is the underlining principle. The commission should determine whether a complaint is dealt with through the formal complaints process with lay assessors, and so on, or as part of an in-house review. It is not a matter of incrementally moving through a process in which you might end up

with a lay assessor looking at your case. Lots of people will not know that you can take a complaint that far, and lots of people might raise their worries, concerns or complaints with their solicitor across a desk. They may not get it resolved to their satisfaction and may simply move on and not record a complaint. They sat across a desk and did not get the answer they wanted so they went to another solicitor.

Mr M Foster: In the new legislation, there will be an onus on solicitors to outline the alternatives for clients if they have complained or are dissatisfied by the outcome of an in-house procedure. It is important that there are in-house procedures available for clients —

Mr Mitchel McLaughlin: I am not arguing against that. Maybe I am not making myself clear. I am asking why do we not take that decision out of the hands of individual practices. I know that there will be frivolous, minor or petty complaints, but, among them, there will be issues that are never drawn to the attention of the assessors. So if the process started with someone having a concern, that concern would be automatically referred. The response might be that the matter could be dealt with adequately by an internal in-house process, or clients might decide to take it up as a complaint to be processed more formally. There already is a power relationship between solicitors and clients, and you are just giving solicitors more power if they can decide whether a complaint is referred. If solicitors say that they will deal with a complaint through an in-house procedure, they can head the complaint off before it gets to the commission.

Mr Paulin: Is that not true of almost any private sector organisation?

Mr Mitchel McLaughlin: If it is, I would argue that it should be fixed. Why would we just replicate what is done elsewhere?

This issue came to public attention because people were not satisfied. I could use stronger language. There was a bit of a closed shop: it was difficult to get at the issues or to get satisfaction, and there certainly was a considerable amount of self-interest in the approach to complaints. We have decided to do something. Why not go for a completely transparent process in which the decision-making is with the complaints body that we are proposing to set up? It should decide whether a complaint can be adequately dealt with in-house.

Mr M Foster: It is an interesting point, and it will be interesting to see the view from the consultees.

Mr D Bradley: Chair, may I ask one more question?

The Chairperson: If it is a short one, Dominic.

Mr D Bradley: Will the in-house procedures be standardised across all solicitor practices, or will individual solicitors be at liberty to outline their own in-house procedures?

Mr M Foster: I am not sure that you could have a tailored system. You have to bear in mind that a lot of rural solicitor firms may have only one person — a sole practitioner — or that there are very few staff. Compare that firm with some Belfast firms that maybe have 20 or 30 partners and a staff of 60 or 70. What may work as an in-house complaints process for a big firm in Belfast may not be appropriate for a one-man band in Lisnaskea. There might be a danger in saying that there has to be a pro forma for in-house complaints.

Currently, the Law Society ensures that a process is available for clients if they wish to avail themselves of it. One has to bear in mind that if I have a fairly nasty complaint against a sole practitioner in County Tyrone, I will probably not want to use the in-house procedure as the relationship with that solicitor may have completely broken down. In those circumstances, it is right that that is bypassed, and I would go straight to a complaints body. However, I might have a complaint against one partner in a bigger firm, and the in-house complaints procedure might be designed to ensure that that partner has no part in the process of the complaint, which can be dealt with in a different way.

I would be wary of making it a requirement that all solicitor firms must have exactly the same complaint-handling process, but I think that there are certain ingredients in the process that all firms must adhere to. That is the process at the moment. The Bill does not impinge on that in any way because those steps have already been taken by the Law Society.

The Chairperson: Finally, what is the timetable for this?

Mr M Foster: A paper from the Minister has been circulated to the Executive, and responses are coming back. We aim to table that paper on 3 October. If it is tabled and agreed by the Executive, the consultation document will be launched shortly afterwards, with a view to consulting for 12 weeks. That will take us to the early part of January. We will then look at and analyse the responses and most likely come back to the Committee to give a readout on that and see whether there are any aspects of the Bill that require changes or tinkering. If we can get a fair wind on that, we hope to introduce the Bill in the Assembly before Easter.

The Chairperson: Ossie and Michael, thank you very much.