



Northern Ireland
Assembly

Committee for Finance and Personnel

OFFICIAL REPORT (Hansard)

Draft Legal Complaints and Regulation Bill:
Law Society

29 January 2014

NORTHERN IRELAND ASSEMBLY

Committee for Finance and Personnel

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Members present for all or part of the proceedings:

Mr Daithí McKay (Chairperson)
Mr Dominic Bradley (Deputy Chairperson)
Ms Michaela Boyle
Mrs Judith Cochrane
Mr Leslie Cree
Mr Paul Girvan
Mr Ian McCrea
Mr Mitchel McLaughlin
Mr Peter Weir

Witnesses:

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| Mr James Cooper | Law Society Northern Ireland |
| Mr Alan Hunter | Law Society Northern Ireland |
| Mrs Moira Neeson | Law Society Northern Ireland |
| Mr Richard J R Palmer | Law Society Northern Ireland |

The Chairperson: I welcome to the meeting Mr Alan Hunter, chief executive of the Law Society; Richard J R Palmer, president of the Law Society; Mr James Cooper, a council member whose photograph is on the back wall because he is a past president of the society and chairs the Bain review group, which is of course relevant to the legislation; and, finally, Mrs Moira Neeson, head of the client complaints department and secretary to the Bain review group. You are all very welcome. Your written submission has been noted and, because of time constraints, we will move straight to questions, as we did in the previous session.

Mr Richard J R Palmer (Law Society Northern Ireland): Mr Chairman, I had hoped to make a short opening statement. I appreciate that you are significantly over time —

The Chairperson: How short?

Mr Palmer: Could I send it to the Clerk and ask if it could be read into the record in due course?

The Chairperson: Yes, that is fine.

First of all, in paragraph 6.2 of your submission the Law Society states that there has been a lack of consultation in regard to this. How is that so?

Mr Alan Hunter (Law Society Northern Ireland): What we are pointing out there is that there are aspects of the Bill where we think that there would be merit in introducing a statutory requirement for there to be consultation with the society so that, for example, when rules are being made by the client complaints committee, it should have a statutory duty to consult with the society where there are matters in relation to the legal services oversight commissioner, the size of her or his office, the geographical location or what the overheads are going to be. There should be a process of consultation with those who are going to be responsible for fitting the bill. Therefore, we think that there might be some merit in introducing a statutory requirement for consultation there. I am sure that there will be informal and ongoing discussions, but we thought that there would be some benefit in introducing a statutory requirement to that process.

The Chairperson: In reference to page 19 of members' packs, what research has the Law Society undertaken to identify the number of complaints made against solicitors that perhaps do not come to the attention of the society? How satisfied are you that such complaints are handled effectively and within the framework that the society sets out?

Mr Hunter: Mrs Neeson may wish to say something about that, but just let me make a couple of points. We have a very interactive website, and we have gone to considerable lengths to make sure that the material in relation to how to make a complaint — the structure, process, required forms and guidance — is all available on the website. We monitor the number of hits in relation to that aspect on an ongoing basis. That gives us a feel for the number of inquiries or the degree of interest out there. I am not saying that that is the total answer or that we should not be doing more, but I am saying that we certainly do have a mechanism there to monitor what is going on on the ground.

Mr James Cooper (Law Society Northern Ireland): When we brought in our new communication regulations in 2008, it became compulsory for a solicitor, when he forms the client relationship for any transaction, to write to that client and lay out, in very detailed and user-friendly terms, that that solicitor has an in-house complaints system. That is the first point of call for any complaint. For instance, in 2013, we had a total of 280 new inquiries direct to the Law Society, but our immediate response to that was to direct the people who made those inquiries back to the in-house complaints system. The effect of that is that they are reminded that, when they set up that contractual relationship with their solicitor, that was their first point of call. The consequence of that is that the 280 inquiries that we got — or, in the previous year, the 348 inquiries that we got — were reduced to, in each instance, around 100 complaints that were actually subsequently registered. That means that those inquiries either went away because they were misplaced in the first place — we send out a very comprehensive package explaining our complaints system generally to anyone who makes an inquiry — or, alternatively, the complaint went back to the solicitor's in-house complaints regime and was resolved there.

We do have a monitoring regime in the Law Society that cuts right across complaints, accounts and conveyancing. Our monitors visit solicitors, and one of the aspects of the monitoring is to ensure that the in-house complaints system is in place, is robust, is transparent and is recorded. It goes to the extent that, if a solicitor does not have an effective in-house complaints system, he or she is in breach of our rules and regulations.

We are satisfied that a very effective complaints regime is now in operation. I stress that we developed that system as a result of our interaction with the Bain committee in anticipation of the type of reform that is encapsulated in the Bill. Of course, it is a core point in the draft Bill, and the opening section suggests that it will be compulsory for solicitors to have in-house complaints systems. However, we have had those for the last four or five years.

The Chairperson: On that point, I was going to ask how you ensure that in-house complaints systems are robust. To a degree, you have answered that. You said that the regulations were introduced in 2008, so they have been in place for five years. You also said that the society oversees the implementation of in-house complaints systems. According to the figures that were given earlier, there are 529 solicitor's firms. How many of those have been checked to ensure that those systems are in place?

Mr Cooper: They will all have been checked. That is part of our reporting monitors' checklist. Every firm is visited by our monitors. We have two sets of monitors: one that looks at solicitors' accounts, and another set that supervises our home charter regime, which effectively is a regulatory regime for conveyancing, which forms a very major part of nearly every solicitor's practice. Each time those

monitors go out, it is their duty to ensure that the solicitor has an in-house scheme. We are confident that every solicitor has an in-house scheme.

Mr Palmer: Our accounts monitors aim to visit every practice at least once every two to three years. Our home charter monitors will be there in between.

Mrs Moira Neeson (Law Society Northern Ireland): On top of the general monitoring, when we are investigating a complaint, part of our documentation that goes to solicitors requires them to produce to us a copy of their complaints register where they record their in-house complaints and give an indication of how they thought they resolved that complaint. That is part of the documentation that must be provided in response to every complaint.

Mr Mitchel McLaughlin: My question is on the same topic. Do you prescribe the internal procedure for complaints? Or is there a variation, and is it something that is autonomous to each practice?

Mr Cooper: No. We certainly prescribe the time limits that a solicitor must adhere to when he receives a complaint. We also prescribe the fact that he must acknowledge the complaint within a matter of days, that he has to respond substantively and in detail to the complainant within 28 days and that, if necessary, there has to be an interface between the complainant and the solicitor. The outworkings of that are that very many complaints are, in fact, resolved. I do not wish to be superficial about it, but many complaints arise through misunderstandings or from people not appreciating how much work is done on their files. As one might naturally expect, a great many complaints relate to charging. We believe, and it has been proven, that those types of complaints are most effectively dealt with by a solicitor sitting in front of a client and explaining to them, in an open and transparent way, what has happened in their file.

Mr Mitchel McLaughlin: Perhaps the larger practices might have more in-house capability and expertise than the smaller practices. Does that not lend itself to an inconsistency?

Mrs Neeson: No, we prescribed a basic model that could be adopted by any firm. However, within the scope of the time limits, the bigger firms have more sophisticated procedures in place, which is understandable. They have levels of management and so forth that can cope with complaints on a different level.

Mr Mitchel McLaughlin: Is there an overall record of complaints made? If so, is that broken down into the issues that were referred to you or resolved through the in-house procedure? Is there any means to analyse the level of satisfaction or dissatisfaction with the service provided by the legal services here?

Mr Cooper: If your question relates to an overall breakdown of the type of complaints within firms that do not reach the society, that is one area that we have yet to develop. We brought in the regulations and make sure that they are adhered to, but I expect that, in our work with the new oversight commissioner, we will develop a system of tracking the type and number of complaints in a more effective way. We have to be clear about that. Our monitoring has not been invasive in that respect to date.

Mr Mitchel McLaughlin: To the extent that there is monitoring, have you come across circumstances in which, even if the client had accepted the outcome of the internal process, you, as a professional body, would have had concerns?

Mr Cooper: No, we have not come across that. We are of the view that, if clients make a complaint, submit an enquiry to the society or go on to the society website, the information that we make compulsory that a solicitor should give at the very start of the contractual relationship is such that, if a client is dissatisfied with the outcome, he or she can be under absolutely no doubt that they have further redress.

Mr Mitchel McLaughlin: What I am getting at, James, is that, in the first instance, there will be an issue because of the power relationship. That is just human nature. A person coming in to meet a professional person will have a certain disadvantage. If they were to contact you in the first instance, they may, in many circumstances, be referred by you — I think that you gave us some indication of this — back to the local practice for its internal process. You may not hear about that again unless your periodic or sample monitoring throws up an anomaly. In a sense, does that not reinforce the

power relationship or the sense of disadvantage? A complainant is sent back to the person about whom he or she is complaining. A complainant may have made a conscious decision on the basis of the very clear contractual obligations, which spell out that there is a complaints procedure: there is an internal process, but there is also a Law Society process. Perhaps choosing to go to the Law Society reflects a concern that he or she may not be able to resolve it internally.

Mr Cooper: I think that the fact that they have gone to the Law Society is probably more derived from the fact that we have a very active website. People, by and large, often need to be reminded of how to complain. We, as a law society, have had, in recent years, a policy of outreach. We are advertising. You may have seen our advertising on the back of buses and on the television recently. We pride ourselves on putting the society at the forefront and being the flag-bearer for the legal profession. I do not accept that our getting an enquiry from members of the public about a complaints regime or procedure necessarily means that they have initially been frustrated or that they have no confidence in an in-house complaints system. Rather, they are simply seeking guidance on how to move forward with whatever level of dissatisfaction they have. That is a policy of outreach and expanding the breadth of knowledge of this society that we intend to pursue. We are also confident and clear that in this new regime, which, in our interaction with Bain, we positively recommended, with a lay majority on a clients' complaints committee, a lay chairman and an oversight commissioner independently appointed, our intercommunication with those organisations will, in fact, address any concerns that you have, Mitchel, about that issue. It is critical to any complaints regime that it is open and transparent, user-friendly and that people can have confidence in it. We have pledged to work with the oversight commissioner in achieving that objective.

Ms Boyle: Thank you for your presentation. I have a supplementary, which, in some ways, has been answered. Your written submission refers to the practice regulations. Mr Cooper, you talked about the regulations on client communication. In some ways, there is an onus on the part of a client when they seek the services of a practice to ask exactly what they are getting for their money. You make some points about what a solicitor must provide to a client on receipt of instruction, including information on costs, who will be dealing with the case and who will carry out that work. That is exactly how it should happen when someone goes into a practice. You said earlier that the bulk of complaints were about cost. If the process that you described were more robust and more rigorously implemented, there would be very little to complain about. As MLAs, the complaints brought to our offices about solicitors are on exactly that subject. They are about people not being informed of exactly what they are getting for their money at the outset. In my opinion, it is difficult to police, and Mitchel has asked how you could manage that. You said that you have reviews and work with the practices, but how do you police that? How do you know, year to year, that practices are giving clients that information at the outset?

Mrs Neeson: On the in-house complaints procedure, part of the question is about the inequality of the relationship. We have a written complaints procedure that was deliberately created as a written procedure because we have so many sole practitioners. We did that so that there was no obligation on the client to face the solicitor and talk about their concerns about cost, because it is always very difficult to talk money face to face in a situation in which clients are being asked to pay or money has been retained. The point of the complaints process was to allow the client to sit down and say what they liked in their complaint to the solicitor, to make all of those points and to allow the solicitor the opportunity to respond.

On top of that, there are statutory provisions that enable people to have a solicitor's fee assessed, which means that, in the taxation process, people can get a judicial assessment of or opinion on their bill without the risk of a court order. In non-contentious business, which is where proceedings have not been issued, they have access to a remuneration certificate, which is issued by a panel of solicitors from the Law Society and is free. So those statutory remedies are also there, and, in non-contentious business and as part of good practice in contentious business, a solicitor is obliged to ensure that the client is aware of those statutory rights. So the complaint is one part of the challenging exercise, but there are also long-established statutory remedies to protect the client, and they are used: we get 40 or 50 remuneration certificate applications a year. I have no stats on the taxation process, but there are a significant number of instances of solicitor and own client taxation.

Ms Boyle: Is that practice working well?

Mrs Neeson: Yes, it is.

Mr Palmer: As part of the routine monitoring that I referred to earlier, our monitors will seek a random sample of client files. One of the things that the monitors look for in each file is the client communication letter. If it is not there, that will be reported back as part of the monitor's report, and the solicitor will be reminded that it is a regulatory breach not to have it there.

Ms Boyle: So you evaluate it.

Mr Cooper: Finally, in all conveyancing transactions, it is compulsory for the solicitor to state what the fee will be at the outset. Before clients have bought into the deal, as it were, they get a letter stating what the fee will be, what they will pay the government and what the cost of searches will be. Only in exceptional circumstances can a solicitor vary or depart from the cost that he has outlined to the client, and that has been a powerful tool in limiting the number of complaints about fees.

Mr Girvan: On the tracking of a complaint, I appreciate that the complainant must first go to the solicitor's firm and go through its mechanism. Are solicitors responsible for informing the Law Society that that they have received a complaint that is being investigated? In other words, regardless of whether a solicitor manages to resolve a complaint without it being taken any further, is the complaint tracked from the moment that he or she receives it?

Mr Cooper: At the moment, we do not compel a solicitor to report to the Law Society every complaint that he or she gets. We take a proportionate view on that. I come back to the fact that many complaints arise through pure misunderstandings of the law, the nature of the work or some particular aspect or reason why the client may feel that there is a delay or be aggrieved because they did not get a response to a telephone call or whatever. Again, I imagine that we would engage with an oversight commissioner and the client complaints committee on these issues. However, we have taken the view that we would be in uncharted, and perhaps somewhat irrelevant, territory were we to compel all solicitors to report every time that a client expressed dissatisfaction with their service, for whatever reason.

We monitor the number of complaints that a solicitor gets and the fact that they are dealt with properly and appropriately. However, we do not say and have never said to a solicitor, "Every time you get a complaint, you must send a letter to the Law Society." We are very open about that. We can have that debate with the oversight commissioner and, with the evolution of the client complaints committee's work, we will address the issue. Presumably, in that scenario, we will have the benefit of a majority lay membership of the committee to give their views to us.

Mr Girvan: Do you have a mechanism similar to that in the medical profession, whereby a pattern of complaints against a firm or an individual raises a red flag and further investigation takes place, even when complaints have not been received?

Mr Cooper: Yes, we certainly have a regime in our client complaints committee, on which, as you will remember, we have significant lay representation, so that, if we get a pattern of complaints, we consider referring the case to our professional ethics and guidance committee. That committee has oversight of accounts and monitoring. Invariably, the outcome of such a referral is that our accountants and monitors would be advised by the committee that there is a red flag against a firm and they should look into that. So we have that ethos. I reiterate what the Bar Council said, in particular about barristers being probably more robust about their colleagues being flagged up than laypeople might be. One of the great strengths of the Northern Ireland Law Society is its collegiality, as recognised by Bain. I will not call it whistle-blowing, but it is in the interests of every solicitor in Northern Ireland because we are financially accountable and exposed to any misdemeanours by the colleagues with whom we work and engage in commercial transactions. So we take a very strong and robust view that, if there is a signal of impropriety of any description in a firm, we should push that forward. That ethos is at the heart of the complaints committee as well.

Mr Girvan: One of the recommendations in the Bain report was on the balance of professionals and laypeople. We asked this same question of the Bar earlier: has there been a change to the weighting of the majority?

Mr Cooper: Our present committee has one third lay representation. In the Bill, and we supported the Bain recommendation, the majority on the client complaints committee will be laypeople, solicitors will be in the minority and the chairman will be a layperson. That means that there will be complete lay

majoritism in that committee. In fact, the draft Bill goes further: it states that the majority lay participation should equate to two thirds of the committee.

We have an issue about whether it is just a simple majority or whether it is two thirds, and we intend to engage on that as we move forward in this process. We are worried that, if the ratio is two thirds to one third, the committee will become too dependent on the very limited number of participating solicitors for legal advice. That would be a bad thing, because flexibility is needed in the working of those committees. Also, subcommittees will derive from those committees, so we think that we need to look closely at that. We are, however, committed to having a majority lay balance on the committee and a lay chairman.

Mr D Bradley: Good afternoon. It has been said that there would be major advantages in having a common complaints handling scheme for all solicitors here, in so far as it would allow comparability of approaches and processes; it would make data collection and comparability easier; it would be easy to raise public awareness and educate the public about the complaints procedure; it would be easier to train lay members and even solicitors on the complaints committee; and it would ensure that all the necessary components of complaint handling were included. What is your view?

Mr Cooper: I will focus for a moment on the word "common": the system that is recommended and will be enacted by the Bill is a common system in the sense that it will cover every solicitor.

Mr D Bradley: I am talking about common components and elements so that the piece of paper that you get in one solicitor's office would, for the reasons that I have outlined in my question, be virtually identical to that which you get in another.

Mr Cooper: Yes, and that should already be part of our system of client communication. We lay down the pro forma that every solicitor should have and use in dealing with clients' complaints. I am confident that, at the moment, there is a system that is common to every solicitor. The Bill will make the system common to every solicitor. The standards and criteria of the client complaints committee will cover every solicitor, and there will be no toleration, either from the Law Society perspective or from the client complaints side —

Mr D Bradley: Let me intervene there for a minute.

Mr Cooper: — of a departure from that.

Mr D Bradley: In one solicitor's practice, I was told that, if my constituent had a complaint, I should write to the head of the practice. Does that same scheme operate throughout Northern Ireland?

Mr Cooper: Yes.

Mr D Bradley: There is no guidance and no pro forma.

Mrs Neeson: We produced a straightforward model that could be adapted by any solicitor to take account of their practice. What works for a sole practitioner has to be refined for a larger firm. Client care managers in larger firms take responsibility for complaints. Some smaller firms will refer their in-house complaints to a colleague or someone else, and our rules provide for that. I understand your point in the context of standardisation, and we are looking at that. I have drafted a form, and my committee will look at that. It is difficult to make sure that people understand what the form will be, but we are trying to create a form that a member of the public can use to write down all their concerns and send to their solicitor. We hope that, if it works, the solicitors will adopt that form into the process. If so, that will be what the client ultimately gets when they decide to use the process. That means that, if complaints come to us and clients have followed the standardised format, we will issue guidance notes to try to keep them focused. As you can understand, complaints come in many different forms. Some people are very good at including all that they need to, but others leave out essential matters. The idea is to try to help members of the public get the information to solicitors so that they can solve the problem.

Mr D Bradley: That is a very good idea. In my experience, the first point of contact was the solicitor's secretary, and she did not know anything about complaints procedures. She told me that she would talk to some of the solicitors and ring me back. She also said that I should write a letter to the head of the practice. A pro forma that gave a certain commonality and comparability to the complaints system

would be very useful. It would be much easier for us as MLAs, citizen's advice bureaux and individual members of the public to use that rather than the ad hoc approach that I encountered.

Mrs Neeson: I cannot claim any credit for it. I have seen it in other jurisdictions, and I thought it a very useful tool that was worth trying.

Mr D Bradley: I agree with you, and I welcome the fact that you are doing that.

Mr Cree: Good afternoon. I notice that time is moving on, so I may have to curtail my comments. I asked our friends from the Bar about the form of redress and the maximum sum of £3,500. I believe that it is about eight years old. Does the society believe that that is adequate?

Mr Cooper: The £3,500 is the figure mentioned in Bain. It is important to set it in context. You can have an award of up to £3,500 for lack of service, poor service, and distress, inconvenience or, indeed, loss suffered from that poor service. Statistically, in England, which is obviously a much bigger system, the general territory of the awards is hundreds of pounds, not thousands. Even the medium-to-high award is generally around £1,000. We are quite satisfied, in the first instance, that £3,500 is a proportionate figure. I concede that it was recorded at the very start, some years ago, but we are still satisfied that that is a proportionate figure and that it is proportionate to this type of complaints system.

We have to bear in mind that the more you push compensation figures up, the more litigious and challenging any complaints system becomes. The higher the figure, the more likely it is that you move on to the next tier and solicitors appeal it to the next level, resulting in the system being overburdened with challenges. That said, we are cognisant — we support it in the Bill — that the oversight commissioner and DFP have the facility to keep that figure under review. If the experience of this new regime were to be such that, during its embedment and first stage, it became clear to the client complaints committee that a proliferation of claims were not being adequately dealt with within that band, the appropriate trigger would be pulled by the legal services oversight commissioner, and the figure would be reviewed and pushed up. We have no complaint about that. However, we think that the current figure is proportionate and in line with current standards right across the UK.

Mr Cree: Much of your submission deals with the legal services oversight commissioner and the complaints committee. There is a lot of detail. You suggest that certain changes are necessary. How crucial are they to moving forward in line with Bain? Do you reckon that any particular issues are crucial?

Mr Cooper: Are you referring to the reservations that we have? We certainly think, as mentioned earlier, that there is a lack of prescription, if you like, in the legislation about the level of dialogue and consultation between the legal services oversight commissioner and us. In addition, we have some views about whether it is entirely correct that the appointment of a legal services oversight commissioner should preclude anyone with a legal background. We think that we need to examine those issues with the Committee as we move forward on the Bill.

It is important, if the system is to work, that we are joined up with the client complaints committee and the legal services oversight commissioner under a type of umbrella that makes sure that the outcomes are satisfactory and workable for everyone. We have concerns that, in the embodiment of the Bill, there is less compulsion than there should be on the oversight commissioner to consult us and agree the outcomes with us. That is very important.

We also have concerns about the cost, as the Bar Council representatives mentioned. We do not want to go into detail as you have already heard how much it costs to become a practising solicitor. The whole *raison d'être* of the scheme is that it is proportionate to the size of the problem in Northern Ireland and the size of the jurisdiction. We want to ensure sufficient accountability of the legal services oversight commissioner's office and the expenditure that it will incur, which, ultimately, is paid by us, and that the system does not run away with itself.

Let us be clear: in England, the system costs £80 million a year to run. Bain decided that there could be no question of that applying here, as indeed did the Office of Fair Trading, 'Which' magazine and all the economists, because of the risk of costs running away. We want to have an active participation, which is not encapsulated in the Bill, in dialogue with DFP and the legal services oversight commissioner in order to retain some sort of cap on costs. Those are our main issues. We have said quite clearly that we support the draft Bill, and we repeat that. We are not here to cherry-pick from it.

We believe that the ethos and structure are there, and we are confident that, when we work out the detail with DFP and the other stakeholders, we will be able to put in place a better and very successful system.

The Chairperson: Thank you for that.

Mr Weir: Leslie has covered some of the points that I was going to raise.

To be fair to the Law Society, it is a more detailed and extensive response on the legal services oversight commissioner than the Bar's submission is, which seems to be more of a work in progress. There are a number of areas in which you have flagged issues. There is a running theme of what appears to be scepticism of, or concern over, the lack of input into some of the decisions taken. Has there been a lack of consultation? There are specifics in your submission, but some of those may lend themselves to regulations or guidance. I wonder about the enforced position of ensuring that there is direct consultation and input from the likes of the Law Society. To what extent do you suggest that that should be included in the Bill, or are you flagging various issues that, from the practice point of view, need to be fairly clear in the guidance or regulations that will steer the Bill? That is my first question.

Mr Cooper: We would certainly like the opportunity to look at stiffening the language around consultation in the Bill. We think that it is absent. We also have concerns — I did not mention this — about the singleton appointment of an oversight commissioner and how accountable that commissioner is when it comes to performance. Who will have oversight of him? We feel that the Bill is rather silent on how you measure performance and how, if you had the unfortunate situation in which he was not adequately fulfilling his role or delivering as he should, an oversight commissioner is called to account under the Bill. We need to look at that as well. Therefore, there are territories in the Bill that we think need stiffened up. Likewise, we also take the view that the outworking of the regulations can cover more discrete points.

Therefore, our paper flags the issues. We did not necessarily think that we would get into those today, as we have not got the time. However, we intend to raise those issues.

Mr Weir: From that point of view, James, it is an issue of strengthening language so that, once the detail has been sketched out, the legislation sets much more of a tone and a regime for a greater level of consultation. Your paper also flags the issue that has been raised since Roman times of who guards the guardians. Who will oversee the oversight commissioner?

In your answer to Leslie's last question, you dealt to some extent with reasonableness of cost, and you have given us some evidence in connection with that. There also seems to be a degree of concern around the scope of the commissioner's role or, indeed, that his remit may be a little overreaching. You make specific reference to having some concerns over who, under the regime, can make complaints to the commissioner. A further concern is that, if the independent body is supposed to be independent of the Law Society, there may be double standards involved in your expressing concern that the commissioner will have some veto over the membership of the solicitors complaints committee (SCC). Can you expand on those areas?

Mr Cooper: We certainly feel that the appointment of the SCC — currently the client complaints committees — lies with us, subject to, at the moment, a veto by the oversight commissioner. The first thing is that those appointments will be made by Nolan principles. I heard the question asked earlier about how appointments will be made. We are very committed to Nolan principle appointments, to openness and transparency, to advertising and to having an appointments panel that has proper outside professional assistance and lay participation.

We have an issue with whether, at the end of that appointment, if all the standards and criteria have been met and, we imagine, approved by DFP, it is appropriate for the commissioner to be able to veto an appointment. He is an oversight commissioner. We certainly think that we can consult with him on appointments, but we feel that it is inappropriate that the oversight commissioner should be so powerful that he can dictate the makeup of the client complaints committee, because we think that that marks a division. It would blur the division of responsibilities and compromise his position as an auditor of the working of the independent committee. In fact, the danger is that the committee would become an arm of the oversight commissioner, and the very standards of independence that you set out to achieve could be compromised by that. That is one of the issues that we have, and we feel that it needs to be looked at.

Mr Weir: Specifically, you referred to concern about who is in a position to make complaints. What is your concern? Paragraph 8.7 of your paper states:

"The Society has concerns about any proposed changes to who can complain under Section 34."

Mr Cooper: At the core of that model is the fact that those who complain, generally speaking, have to be a client of a solicitor or a personal representative in any type of administration of estates. We have a concern that there is a lack of clarity on any other ability for people to complain. We do not think it appropriate, and we have to close down in any complaints mechanism. If complaints are about a solicitor, they have to be based on a relationship between the solicitor and the complainant. We think that we need to audit the wording in the Bill to —

Mr Weir: From that point of view, are you concerned that there may not be any nexus at all and that the legislation may simply leave it open, or at least that that may be the unintended consequence of what is there, as opposed to a clearly defined relationship?

Mr Cooper: Yes, and we are going to address that in our detailed discussion with DFP.

Mr Weir: Presumably the danger is that, when you break that direct connection, it could lead to a much higher and disproportionate level of vexatious complaints without any merit at all.

Mr Cooper: Absolutely, because it would be entirely inappropriate if third parties with no relationship with a solicitor should suddenly start complaining about that solicitor. For instance, if a witness in a case, who had nothing to do with the solicitor, was dissatisfied with the way in which he had been treated in court, or whatever, the regime would collapse if the doors opened for that sort of complainant.

Mr I McCrea: I want to go back to the issue of the complaints. I have checked your website. Whoever is monitoring your page, you have two fewer complaints than you might think. I checked the hits.

Mr Cooper: Two have disappeared.

Mr I McCrea: To be fair, your website is quite clear on the process for making a complaint.

I asked the Bar Council representatives a similar question about education. How do you ensure that people are not just making complaints because they feel aggrieved that they did not get the result that they wanted? As a body, how do you feel that the education process is going? When you consider complaints, how do you ensure that they are proper complaints? Concerns were raised earlier that people are not making complaints because they do not see the point, as it is seen as a case of lawyers complaining to lawyers about lawyers. How do you overcome that while ensuring that the educating of people on their ability and right to complain is front and centre?

Mr Hunter: I suppose that that is an ongoing piece of work, because you never reach the end point. The society has taken several steps to meet that objective as fully as possible. One of the main tools, as you mentioned, is the website. We are redesigning it and will look again at how we can further promote and improve on what is there. We also take other steps, with hard copy leaflets about the complaints machinery being left in public buildings such as libraries, and so on.

As far as our members are concerned, the committee discusses all aspects with the lay observer as part of its ongoing discussion with him. One specific thing that we do is talk to the profession at annual roadshows and events about the trends in complaints and the lessons learned from what is happening with them. For example, we ask the lay observer to speak to the profession about his observations, how he finds the complaints machinery and the things that he thinks that we can do.

Therefore, we have that ongoing dialogue and promote the complaints mechanisms and complaints service. We will continue to do that.

The Chairperson: Are there any other questions, members?

Mr Mitchel McLaughlin: I want to ask a very short supplementary question that follows on from my previous line of questioning. There will obviously be clients, perhaps those interfacing with the criminal justice system, who may have literacy or others problems. The in-house process for

expressing discontent with the service might be very challenging in those circumstances. How would you satisfy yourselves that that is being addressed? How do you think that we might address such issues under the proposed arrangements?

Mr Hunter: Some work needs to be done in the area, and there is no doubt about that. We have started to do that work. We have held conferences with the Royal College of Speech and Language Therapists (RCSLT). We met Disability Action earlier this week and will meet the representative body for people with hearing difficulties. As part of that engagement, we are working closely with those representative organisations to identify what the issues are, what their constituents' needs are and how we can meet those. I am not saying by any means that we have got to the end of the process and that we have an ideal scenario. However, we have started to have those conversations and are doing work on that.

Mr Mitchel McLaughlin: Do you feel that, for those very discrete issues, there would be a necessity for prescription, so as to ensure a consistent level of service in response to complaints?

Mr Hunter: I suppose that, in that context generally, people talk about awareness and getting maximum cooperation. I am not sure that we are at the stage at which we need to be prescribing. We may be, but I am not sure that we are. We need to have increased awareness, cooperation and publicity, and make those other avenues and facilities open so that people know to where they can go to get the help that they need. We also need to raise awareness of that in the profession, which is why we have been running conferences and why there will be an article shortly in our in-house journal to deal with those issues. We are working on that.

Mr Mitchel McLaughlin: Thank you.

The Chairperson: OK. Thank you very much, folks.