



Northern Ireland
Assembly

Committee for Finance and Personnel

OFFICIAL REPORT (Hansard)

Draft Legal Complaints and Regulation Bill:
Lay Observer for Northern Ireland

4 June 2014

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Members present for all or part of the proceedings:

Mr Dominic Bradley (Deputy Chairperson)
Ms Michaela Boyle
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 Alasdair MacLaughlin Lay Observer for Northern Ireland

The Deputy Chairperson: I welcome the Lay Observer, Mr Alasdair MacLaughlin, and invite him to make an opening statement. You are very welcome, Alasdair.

Mr Alasdair MacLaughlin (Lay Observer for Northern Ireland): Thank you, Chairman, ladies and gentlemen. I am holding up the real version of the annual report rather than the black-and-white copy that you have. I have copies for everybody, Chairman. It was published on 31 May, which is the normal date for publication. I commend it to you because I think that the answers to some of the questions in our own jurisdiction are contained in it and in the annual reports over the period that I have been Lay Observer. I am in your hands, Chairman.

The Deputy Chairperson: OK. Perhaps we could start with questions. Given your experience of overseeing the complaints-handling process of the Law Society, are there any improvements that you believe could be made to the Bill, perhaps including changes to ensure that any weaknesses in the Lay Observer arrangements are not replicated in the new scenario?

Mr A MacLaughlin: As everyone knows, I shall become extinct, and my post with me, when the legislation comes into being. The draft Bill proposes a commissioner who will have much greater powers than the Lay Observer has. The Lay Observer powers are very peculiar. On the one hand, you have the power to send a solicitor to the disciplinary tribunal. I, of course, cover only solicitors, and, as you know, the existing legislation covers only the solicitor branch of the profession and not barristers. I can send a solicitor to the disciplinary tribunal, but I do not do so because that would place a cost on the public purse. The correct people to do that are the Law Society. In a few instances, I have found it appropriate to recommend that a solicitor should be treated in that way. However, it has gone back to the Law Society, which has considered it and taken the necessary

action. So, it, as a profession, has borne the expense rather than the public purse. That area will be strengthened.

I think that your question is more about what the proposals are and how they relate to where the commissioner will be and so forth. One of my great challenges is to try to encourage the Law Society to focus, as well as on the regulations of the solicitor, on the resolution of a complaint that a client has brought. We have a system in this country that is quite adversarial. When things go to court, for instance, there is usually a winner and a loser. Even in family law where, increasingly, there is accommodation of one sort or another, whether conciliation or arbitration, both sides feel a bit aggrieved even though there has been a resolution. It is quite difficult to ensure that we get a balance.

As far as the legislation and the order as it exists at the moment are concerned, the Law Society is really focused on regulating the solicitor. I have been there far too long — 10 years already. There are reasons behind that that we can go into if you wish, but it is not really relevant. During my tenure, the Law Society has tightened its regulations. As you know, there is a process that it goes through whereby the Lord Chief Justice has to approve the regulations. They have tightened up the regulation of a solicitor, and, in my view, it seems to be working very well.

Compare that with what happened in England and Wales. Clementi suggested taking the whole lot away from the Law Society of England and Wales because it was not doing it properly; it had got out of control. That has not happened in Northern Ireland. The role of the Law Society is vital, and, in my view, it is pretty well dealt with. However, there are various details that need to be tightened. The devil is often in the detail.

Turn your attention to the other side, which is resolution for the complainant. Here, the whole thing is out of balance. The Law Society tends not to think primarily of finding a resolution for the complainant, and, although you may alleviate and explain why, you will never satisfy a complainant wholly and entirely. Those are the areas in which the Law Society has had considerable difficulty and where I have made many recommendations over the years.

It has come part, but not all, of the way. My publication this year will show you that, as regards the various recommendations that I made last year in connection with making it more fair and more helpful to the complainant, the Law Society more or less said, "Well, we are not doing anything more", or, "The answer to your recommendation is to be found in the detail of our various publications." Those are the sorts of responses that we are now getting.

The particular value of the Bill is that it will crystallise the regulation; in some aspects, it will increase it. It will increase the penalty on solicitors and on the profession if they do not do it properly. On the other hand, the requirement of the Bill will be to consider the needs of the complainant — the client who is complaining — much more assiduously. Those are the areas that need to be changed now and which, in my view, the legislation will help to change.

The Deputy Chairperson: Thank you. You said that the Law Society does not focus on the satisfaction of the complainant and quite often refers to the detail of their procedures and so on. Does that indicate a defensive attitude on behalf of the Law Society?

Mr A MacLaughlin: Perceptions. The way that the Law Society explains it to me is that it is in a quasi-judicial capacity, and so it is. If a complainant presents bad enough criteria, so to speak, the solicitor can land in front of a disciplinary tribunal; that is part of the judicial set-up. It is a court, albeit a tribunal as opposed to something labelled a court. Therefore, the Law Society takes the view that it has to be very careful about dealing only in facts. If a client says, "My solicitor was rude to me", and the solicitor, when asked for his response, says, "I was not rude." You then have a question of who is right and who is wrong. The complaint set-up, as it is at the moment, cannot sort that out. I think that the Law Society would take the view that it does not need to sort it out. Do you see what I am trying to say?

The Deputy Chairperson: Yes.

Mr A MacLaughlin: In such a circumstance, the Law Society will simply say to the complainant, "Look, there is your view, there is the solicitor's view, and they are opposing. We cannot do anything about it." Those complaints often come to me, and it is down to me to try to explain what the Law Society frequently has not explained. The legislation does not permit this to be dealt with. Do you see what I am saying?

Mr D Bradley: Yes.

Mr A MacLaughlin: My role has become — quite rightly, in my view, and nobody has challenged me on it — one of doing quite a bit of what the Law Society should have done in the first place. That is where the informal activity that has been referred to in my hearing and in the accounts of previous witnesses is so important. Complaints come to the Law Society to which it will frequently respond, "The Law Society cannot deal with your complaint; full stop." It takes the view that all you need to do as a complainant is read its leaflet and you will find out why. The complainant then complained to me that the Law Society was not interested. I said that it was interested but that it is not allowed to do that or that the legislation prevents it from doing that and so on. You explain the matter. That should have been done in the first place. One of the responsibilities of the complaints committee seems to be, from my reading of it, that it would indulge in this. If someone needs to go to the Citizens Advice Bureau or to consult an independent legal adviser or needs to go to the Police Ombudsman, or whoever it may be, they should be told that.

The Law Society says that it does not know how to deal with complaints that are outside its jurisdiction. Well, nor do I. I would not presume, and I cannot give a legal opinion; but I can tell the complainant to go to somebody who can, whether that be the Police Ombudsman or someone else. That sort of activity is very important.

Equally, if the complaint set-up is inappropriate to deal with a complaint, or, in other words, if there is a hint of fraud, you may in some circumstances have a complainant who is no longer a complainant; he is an alligator [*Laughter.*] — by that I mean that he alleges things, if I may put it that way. Those things have to be tested, and that has to be done, not in a complaints system, but in the courts. In my view, that kind of channelling and a very assiduous and careful approach will help to deal better with clients who complain about their legal people. I include in that the other half of the profession as well.

The Deputy Chairperson: Section 5.22 of the report states:

"No-one knows the number of transactions with clients that solicitors undertake".

It also states:

"the solicitors' profession in Northern Ireland remains one of very low complaint incidence."

How can we be assured that the complaints recorded by the Law Society and the Bar Council, that is, at the second tier, are not the tip of the iceberg and that only the most persistent complainants pursue their unresolved matters beyond the direct relationship with their solicitor or barrister?

Mr A MacLaughlin: I understand exactly what you are saying, and I have noted that there is a quite strong view that it is important to know that information. My personal view is that it is not important to know that information. However, it is important to know that, first, the solicitor is given clear directions in the regulations, which he is at the moment, incidentally. If you look at the regulations, you will find that it is pretty clear what you should do. Not the nuts and bolts and how you write it — for goodness' sake, these are professional people — rather, they give criteria that have to be fulfilled. In other words, when you go to a solicitor as a new client or with a new piece of business, you should be given a client-friendly piece of information, including what you will be charged, who to complain to if you have a complaint and so on. All that stuff should be there, and that is in the regulations.

The problem, really, is whether the solicitors apply it. The Law Society audits its members and their businesses very assiduously, I have to say. It is not my business to interfere in that; I am simply giving you my opinion from the impressions that I have gained over the time that I have been doing my job. Do you want to count the number of complaints that individual law firms or individual solicitors receive from their clients? If you do, you enter into a bureaucratic situation and there is the danger of pushing it aside. I know that that is a concern of the Scottish Legal Complaints Commission at the moment: that some of the bureaucratic nature of the complaints system is such as to drive the thing away.

In other words, you can pay £500 compensation and tell them to go away because they will not get much more if they go through the system. That would be a most retrograde step, but it could well be the result of trying to get that kind of information on a bureaucratic basis.

Having said that, that is only my view. From a governmental angle, there may be good reasons for doing that; I do not know. The Law Society in its evidence to you said that it needs to look at that. I

have no idea how many come in at that level. However, it is important that the Law Society knows whether its professional members are following the regulations set down for them.

The Deputy Chairperson: Is there an onus on solicitors to inform the Law Society of any unresolved complaints?

Mr A MacLaughlin: I do not know the answer to that, although I do not think that there is. However, a complainant can take that to the Law Society, and some have done so. Complaints come in regularly about solicitors not following through and finishing the act — or perhaps not even starting it.

The Deputy Chairperson: Mitchel's earlier point, which has been made at previous meetings, was that the solicitor/client relationship is often weighted in favour of the solicitor, and, in some cases, the client may not even be aware that he or she can refer a matter to the Law Society.

Mr A MacLaughlin: I accept what you are saying. That is why I understand the complaints system. The Law Society is advertised on the back of buses and such. It has perhaps been prompted into doing that in light of the new Bill coming in. Nevertheless, it is doing it. This is very important. It is the Law Society's job to make sure that the populace in general understands, and, of course, advertising is only one of many ways of doing that. The question is this: how do you get the profession to deal with this, and how do you get the profession's representative body to do that?

The Deputy Chairperson: Is there any commonly accepted and applied definition across the legal profession of what a complaint is?

Mr A MacLaughlin: Is there any clarity on that?

The Deputy Chairperson: Is there any commonly accepted definition across the legal profession of what a complaint is?

Mr A MacLaughlin: Well, yes, there is. I cannot tell you what it is, but it is in this Law Society leaflet and on its website. That is at a higher level. Are we going to go around saying to the public, "Look, this is what constitutes a complaint when you are dissatisfied with Tesco or Marks and Sparks"? You do not have to define that; they know when they have a complaint. The important thing for Tesco to say is, "Thank you for bringing this to our attention; we are sorry that it happened". It will then say, "There is nothing that we can do about it", or "Go and pick yourself another bunch of grapes", or "You can have your money back". Do you see what I am saying? I am perhaps being very presumptuous, but is it really necessary to tell a client what a complaint is?

The complaint is taken to the solicitor and is dealt with at that level, or it should be. If it is not, you go to the Law Society. That appears to be what the draft Bill is going for as well. A complaint needs to be carefully defined, and the definition needs to be promulgated amongst the profession so that members know what is likely to go to the Law Society and what is not. A complaint is defined in these terms here. It is there all right.

The key important question that you raised is how on earth we ensure that people understand that they can complain and ensure that, when they enter the process, the steps to where they can take it are clear to them.

The new Bill will, in fact, have two levels rather than three. At the moment, there are three, because if they are dissatisfied with the Law Society, they come to me. My understanding is that, in future, the Law Society complaints committee will have to satisfy the person, except where the commissioner can presumably come in and look, in a generic way, at patterns of complaint and things of that nature. I assume that that is what is intended.

That is where informal dealing with a complainant to try to get their complaint in order is so very important.

Two or three weeks back I had a case of a guy who tried to bring a complaint against his solicitor to the Law Society. It took him about eight months to get the darned thing accepted by the Law Society. He went through so many hoops filling in forms, then the form was sent back to him and he had to fill it in again. He persisted, and at the end of the day the complaint was registered — well, part of it was.

One of the complexities was that bits of it should have been shovelled off elsewhere, but he was not told that until right at the end of the process.

It took pretty much a year to deal with that complaint. Is that good enough? No, it is not. Would legislation have altered that? No, it would not, except if they had been required to deal with that complaint informally and say, "Look, mate, you can't take this whole complaint here, because there is an element of this allegation of fraud or sharp practice that has to go somewhere else; but this part of the complaint we can put through the system. Now away you go and make your decision about which you want to do or whether you want to do both or not and then you take it from there". At the moment that does not happen.

The Deputy Chairperson: OK. Do you see any benefit in the new legal services oversight commissioner collating comprehensive data on all complaints across the legal profession at both primary and secondary tier?

Mr A MacLaughlin: I do. I try to do that already. You will find chapters on types of complaints, how they came forward, what type of business was involved, what happened to the complaint when it went through the system at the second tier — in other words, the Law Society — then what came to me for me to deal with and what the outcome was. It is vital to look for patterns. Quality checking may be too strong a term, but it is a reality check of what is happening in the round. The commissioner will be very well placed to do precisely that.

The Deputy Chairperson: In your evidence this morning you outlined the type of responses from the Law Society that were not helpful to the complainant and said that you had to mediate those responses by interpreting them. You said that you had pointed out those difficulties to the Law Society. Has it responded, and has it improved its responses on the basis of your advice?

Mr A MacLaughlin: There are two things. "Always" is too strong a word; they often do not do what they should. I have made great play of the importance — I have a bit of a bee in my bonnet this year — of saying, "Do what is right". Secondly — not necessarily in that order — treat complaints as a jewel, as a gift as something very important, because they give you feedback on what is happening in your profession. You may say that there are a million transactions, 100 complainants come forward to the Law Society and 48 come to you. That is not much of a set of crown jewels. Well, the crown jewels are pretty rare as well. They are very informative. I think that the Law Society has been very responsive to that and has tied the complaints system closely to its continuing professional development programme.

I have had the privilege of attending many of the very well-attended seminars that have been run. Some were on complaints processes on inheritance, which produced a huge number of complaints in one year for some odd reason. There was no reason for it, but that does not matter; you would do something about it. Initially, when I came in, conveyancing was the most common background to a complaint and, again, the Law Society ran very well-attended seminars dealing with that across the country. You can see in the statistics that complaints in those areas have been ameliorated to an extent.

One thing that the Bill seeks to outlaw is solicitor-to-solicitor complaints. I have expressed grave disapproval of the use of such complaints by solicitors simply seeking to manage their affairs. It is different if you do it on behalf of a client where you cannot get a particular document out of the system, but it is another matter to complain, one solicitor against the other, that one did not send the other a letter on time and ask why. The Law Society comes into such cases, and, lo and behold, the letter materialises. Those are silly things. We have used it to deal with certain, dare I say, silly ass things like that; on the other hand, there are also the jewels to help to focus the professional development programme.

The Deputy Chairperson: Paragraph 1.14 states that an administrative arrangement has been put in place whereby you have been restricted to having only arm's-length contact with the Law Society's complaints department. What are your thoughts on that arrangement?

Mr A MacLaughlin: That is a message to the Law Society. Since the Bain review, the Law Society has responded very well. It has physically separated the complaints department from the rest of the Law Society; it has put it on another floor and you go in through a different door. In my view, if I am overseeing the complaints department, why should I be placed in another part of the Law Society, which is representational? Why should I not be placed in the complaints department when I go to look

at files and so forth? It makes sense, does it not? Effectively, I have been sent off to another place to do that, and I do not think that that is appropriate.

I was trying to prompt joined-up thinking with the Law Society. I wanted to tell it that it has gone to all this expense to separate the complaints department even though it did not have to, but, because the legislation suggested that it was the right thing to do, it did the right thing and it allocated the offices that I would have been stuck in. I do not have an office; I sit at home and do all this. I am not entitled to an office in the Law Society, and I do not want one; however, I need somewhere so that I can look at its files. I used not to mind where that happened, but if now the Law Society is to do the right thing, as it has done, and separate complaints physically from the rest of the organisation, I should be able to go there. This is not a message to the public; it is a message to the Law Society.

The Deputy Chairperson: I understand. At paragraph 1.10 you say that the Law Society can be seen as a champion of the solicitors, and I suppose that many members of the general public share that perception. How can that risk be mitigated in the absence of a fully independent complaint-handling system?

Mr A MacLaughlin: As with getting any other major concept across, it is not easy. I take the view that it is right and proper that a great profession should be responsible, in the first instance, for its own regulation. I think that we are crazy to take that away, and the disadvantages that are being shown in Scotland after taking it away from the Law Society there, which I have discussed with it and with the Department, are really not very clever. It means that no longer are solicitors concerning themselves with the processes of dealing with complaints. I am coming at it from that angle, and that angle may be mistaken from the legislators' point of view. I may be allowed to come at it from my angle, and that looks like the way in which the Bill will go. If you do come at it from that angle, the Law Society will have to get up off its hind legs and make it clear to the public, make it clear to its solicitors and make it clear to everyone else that complaints-handling is a separate, free-standing operation. That is my opinion. That can be done if people put their mind to it, but that does not mean that it is easy to deal with the perception of the public, and I do not have to tell people around this table about that.

The Deputy Chairperson: Has any work been undertaken to identify repeat offenders? In other words, solicitors who seem to attract continual and constant complaints from clients?

Mr A MacLaughlin: It is my understanding, at the informal level, that the Law Society is not empowered to do this specifically but that it certainly takes account of the experience that it sees. Bear it in mind that complaints is only a tiny sliver, if you like, of regulation. Therefore, the Law Society is in fact gathering information in many aspects of regulation, of which complaints is just one.

To answer your question, I have done an analysis over the years of who has suffered the most from multiple complaints. In looking at it —

The Deputy Chairperson: When you say "who has suffered", are you referring to the clients or the solicitors?

Mr A MacLaughlin: I am trying to pick my words carefully so that I do not put it incorrectly.

Let me give you an example. It is quite common that people who are in Maghaberry are very good "lawyers". They have a lot of time on their hands to think about things, and so on. They have a propensity to sack their legal team if things do not go right or easily. I will not put a figure on this, because I cannot — I have not put my head around it, because I do not think that it is the right thing to do — but I get quite a number of complaints from that quarter. Very often, it is those solicitors who deal with those kinds of cases who find themselves in the position of giving legal advice that has not gone in the way that the client concerned has liked. These are always very tricky and complex cases, as you will understand. I am using those solicitor firms only as an example, and, to a degree, it is hypothetical. I think that you will see that, in those circumstances, those solicitors who handle those kinds of cases can attract complaints.

Equally, family law has become more difficult for the reasons that I gave earlier. In the adversarial system, you get some mediation going on, and the pot that he thought was his has now been divided in two. He has got only half, while she thinks that she should have got more than half but has got only half, and no one is satisfied. We get complaints that might have those circumstances behind them, and that can lead to finding other reasons for delay or whatever.

The Deputy Chairperson: The point to my question was this: from the frequency of complaints against a practice, can you be informed about the possibility of malpractice?

Mr A MacLaughlin: Yes. In theory, I ought never to receive those complaints. The Law Society should have picked them up long since. I am trying to say that it should not take a complaint from some unfortunate client to bring the matter to the Lay Observer. That should have been picked up by the Law Society, and I have to say that it invariably is. When it does not happen and the complaints do not come out, that is when it is very worrying. How do you find someone who has gone wrong and has been clever at covering up whatever it is? In my opinion, when people are caught, they are taken to the cleaners with a vengeance.

Mr Girvan: I take exception to the last comment:

"taken to the cleaners with a vengeance."

We have a letter here that does not necessarily bear that out. They seem to be treated slightly different from other people. In the case of a £3 million fraud, they do not end up even — well, I will not go anywhere on that one, but it is in there and recorded. Somebody else who was guilty of a £50 offence may end up in jail, but somebody who does a £3 million —

Mr A MacLaughlin: I have not had the benefit of that letter, Mr Girvan.

Mr Girvan: OK. I do not necessarily hold to the same views of respect. Having had some experience of lawyers and having been in court many times over issues, I find that there may not be any point in complaining, because it is a cartel. Whether you are talking about the Law Society or individual solicitors, it is a cartel. Sometimes, you have to go out of this country before you get justice in some of these matters, but that is beside the point.

You said that there is self-regulation. We in the Assembly have seen that self-regulation does not always give you clarity on issues, and we have had to set up other bodies on which ombudsmen are involved in overseeing things. They are not linked in any way, shape or fashion. Some people see the Law Society as the trade union for solicitors: there to protect their backs. You have said that, when somebody makes a complaint, it can take months for that complaint to make it right through the system, because the Law Society looks for wee reasons not to accept it. The fact that a complainant did not dot an i or cross a t are given as reasons for not moving the complaint forward, and the Law Society will not give any guidance or help on where the complainant should go.

There are some areas in which independence should be given. The small volume of complaints may also indicate the lack of confidence among the wider community to complain when people come across a problem. Many people that I have spoken to have said, "Ah well, solicitors. You know what has happened there. There is no point in taking the complaint down the road to him because it will be just the same. Both of them meet on a Friday night to have a drink and it is all sorted out before I go anywhere near them, and that is the way that it is".

That is the perception. How do we deal with that? Does this change go any way towards trying to address that lack of confidence that some members of the public have? You may not see it, but I guarantee that I could introduce you to probably 10 people inside 20 minutes who could easily have good reason to complain about solicitors. However, because they do not have the money to take it to another stage, they decide that it is not worthwhile to do so. I think that £17 million or something has been set aside to help run some of this side of things. How can I be sure that people will have confidence to say that they at least know that they will get some justice? After all, it is the "Royal Courts of Justice", not the "Royal courts of lawyers", as some people say, because they believe that that is what it is. I do not necessarily have the overwhelming confidence in the industry that you have. However, that is beside the point. I could name on one hand the number of solicitors whom I would use, and that is the truth.

Mr A MacLaughlin: Whom you would what?

Mr Girvan: Whom I would use.

Mr A MacLaughlin: Mr Girvan is entitled to his views. I could produce 20 people to his 10 who would take the same jaundiced view as you have and your 10 clients would have. Of course I could; I am

not a fool. By the same token, it is not for me to argue against the views and perceptions of people around this table. You all have different views and perceptions. I am here just to give my view.

My respect for a great profession is not based on being one of them. It is not based on my experience of dealing with solicitors in my personal affairs, which has been patchy. It is based on my starting point, which is that people should do right. I must not lecture you, but that is part of our problem in this Province. We must expect people to do right, and that is what this body should be about. It is not for me to tell you that, but to hear Mr Girvan say that my respect is not right — listen, we can all show the negative side of everything. The question is this: do we want to put it right? My view is that this is pretty darn good as a way of doing it, providing that we do certain things.

I have tried to point to those things. If you want to start from another premise, which I do not think that the Executive, the Committee, the Department of Finance and Personnel, the Lord Chief Justice and the council of the Law Society, to which I formally report as well as to the Lord Chief Justice and the Government, want to do, none of them is starting from the point that we are assuming that lawyers are nothing but a thoroughly bad lot. If you want to start there, good luck to you. We need to start from the point, it seems to me, of saying that this is a great profession that is doing a heck of a lot of very good work, and it has done so over many years. Does that mean that there are no bad apples? Of course it does not. My job is to try to oversee this and use what limited powers I have to expose and focus on where there are problems. I have attempted to do that in my various reports and, indeed, in my informal contact with the various luminaries around the system. That is my starting point, and I feel that it is important to focus on the perceptions that we have to get right. If they are based on a large critical mass of fact, let us deal with that.

The commissioner's job, which is, in my view, given the way in which it has been focused on in the Bill, seems to be a sensitive and difficult one. The last thing that we want is to have somebody who has a large ego. We need somebody who is firm, interested in the needs of the public and in making sure that this is right. That commissioner will have to sit on any such thing that you alluded to. That is my view.

Forgive me if I have been a bit emotional about it, but I feel strongly that legislation is about trying to get things right.

Mr Girvan: I appreciate your frankness on that point. Likewise, it is vital that we try to give confidence back to the wider community. I make the point that, for every complaint that you receive, there are probably quite a number that remain totally under the radar because people do not see transparency being involved.

Mr A MacLaughlin: Do you get those?

Mr Girvan: We do.

Mr A MacLaughlin: Why do you not send them to me?

Mr Girvan: I thank you for that and for the opportunity to do that, but each one of us deals with constituency issues daily, and we invariably hear about problems to do with land registry, the claiming of land or one thing or another, and we then find out that there has been some area in which something was not done quite right.

Mr A MacLaughlin: Been done wrong.

Mr Girvan: Yes, been done wrong. On the basis of that, we ask why they did not take it back to that solicitor, and they say, "Well, what's the point?" We then learn that, invariably, the compliant has run on for perhaps tens of years. It has festered and become a bigger issue, and, as a consequence, these things tend to —

The Deputy Chairperson: I ask all MLAs to be aware that there is nothing to stop them from coming to me. There may be nothing that I can do about it, but I can embarrass and inform where that person might go to get some satisfaction. I do not keep records on this, but I have had at least four complaints channelled through MLAs. *[Interruption.]*

Mr Mitchel McLaughlin: They are listening to us. *[Laughter.]*

Mr Girvan: Thank you very much indeed. That is to be welcomed. We need to ensure that we get the message about the proper route to go down out to the wider community.

The Deputy Chairperson: Considering the conversations and exchanges that we have had this morning, do you think that a legal requirement on solicitors and barristers to report any complaints made to them, plus the outcome, would be a useful way of strengthening the Bill?

Mr A MacLaughlin: That would certainly satisfy Mr Girvan, or partially satisfy him.

The Deputy Chairperson: It might satisfy even more than Mr Girvan.

Mr A MacLaughlin: It might.

I am too old for all this centralisation and control of everything that we do. We have a profession here, which I have described as "great", and I still believe it to be. It has got a vital role to play in our society; otherwise, it would not be there. The question concerns the approach that you should take. If you take the stuffing out of solicitors, take everything out of their hands and have someone else deal with it, we all know of the dead hand that can result from that. I think that this is a matter of judgement. Do we really need to know how many clients have complained to their individual solicitors?

You have already asked, Chairman, how you define a complaint, and I have asked whether you really need to do so. If you ask Tesco to publish all its complaints, it would then have to define what a complaint is. Everything that is not tightly bound by that definition would fall outside, and those statistics would not therefore be collected. That seems to me to be the difficulty with doing precisely this. We have tried it with the health service, and what has happened? We have had to retract and try to get management back to being accountable, instead of having management caning nurses because beds are in the corridors, because if they are in the corridors, they are not on the wards, or whatever it is. That is just crazy. If you want to do that, by all means, do it. I think that the results could well mean a huge amount of extra expense incurred in trying to collect statistics that do not tell you very much, because —

The Deputy Chairperson: On the other hand, you could look at it —

Mr A MacLaughlin: — the bad boys will still hide the complaint. Sorry, Chair.

The Deputy Chairperson: On the other hand, you could look at it as a possible way of strengthening the oversight role of the Law Society for its members. That might not be perfect, but it might be an improvement.

Mr Mitchel McLaughlin: I am quite impressed by the fact that you are reflecting two things and are doing so in a very gentle and careful way: first, frustration at the limitations of your own role; and secondly, that the proposed reforms will improve the situation. Possibly, you are not indicating that you feel that they will be entirely successful and that there will be resistance to change, accountability and transparency because there is a well-established culture. I am interested to know whether, within your remit, you are being consulted in any way as an expert witness by the Department or whether there is potential through the work that the Committee is doing for us to come back to you? Does your remit permit you to assist the Committee?

Mr A MacLaughlin: I have always taken the view that, if I am not specifically forbidden from doing something, there is no reason that I cannot do it, as long as it is within the law and sensible.

Mr Mitchel McLaughlin: You can ask for forgiveness afterwards.

Mr A MacLaughlin: Exactly. It was done in the context of my work anyway, because I am involved with people who do the same sorts of jobs throughout these islands through the Ombudsman Association. I have done a bit of a study of what has happened in the past few years as a result of the changes that have taken place in the other jurisdictions, and there is a lot of very interesting stuff. I have summarised some of it in my report this year. I am probably losing track of the questions, for which I apologise.

Mr Mitchel McLaughlin: That is precisely the basis of it. It seems to me that, somewhat like the complainants under the current arrangements, it is kind of a power relationship from the very beginning, and, clearly, the role and function that you performed has been very significant to some of those individuals. However, in my view, it has not been given the necessary resources and powers, based on your example of lack of access and accommodation. It screams that it is time to sort it out once and for all.

The Committee is somewhat in the position of being laypeople and relying on advice. We will get advice from different tiers of the profession, including the Bar Council. Indeed, we have met some of those people, but there is some work for the Committee to do to try to influence the design and structure, as well as the accountability mechanisms and effective responses to circumstances in which there are justified complaints that require redress. Paul gave you some indication of the background of complaints that elected representatives hear about.

There might be a point in the Committee considering having further discussions with Mr MacLaughlin, if he is available. Mr MacLaughlin, you have vast experience of dealing with this over some considerable time, and you have an oversight of the measures that have been adopted in other jurisdictions, which seem to me to be an advance on what we propose to do here. Maybe we should get it right from the start instead of playing catch-up all the time.

The Deputy Chairperson: Thanks, Mitchel, and thank you very much, Mr MacLaughlin. If there are no other questions, we will bring the session to a conclusion. It has been useful to have your experience and hear your views. We will ask you to come back when the Bill comes before the Committee, if you agree to that.

Mr A MacLaughlin: Of course, Chairman.

The Deputy Chairperson: Thank you very much.

Mr A MacLaughlin: Thank you for having me. It has been a privilege.