



BRIEFING PAPER

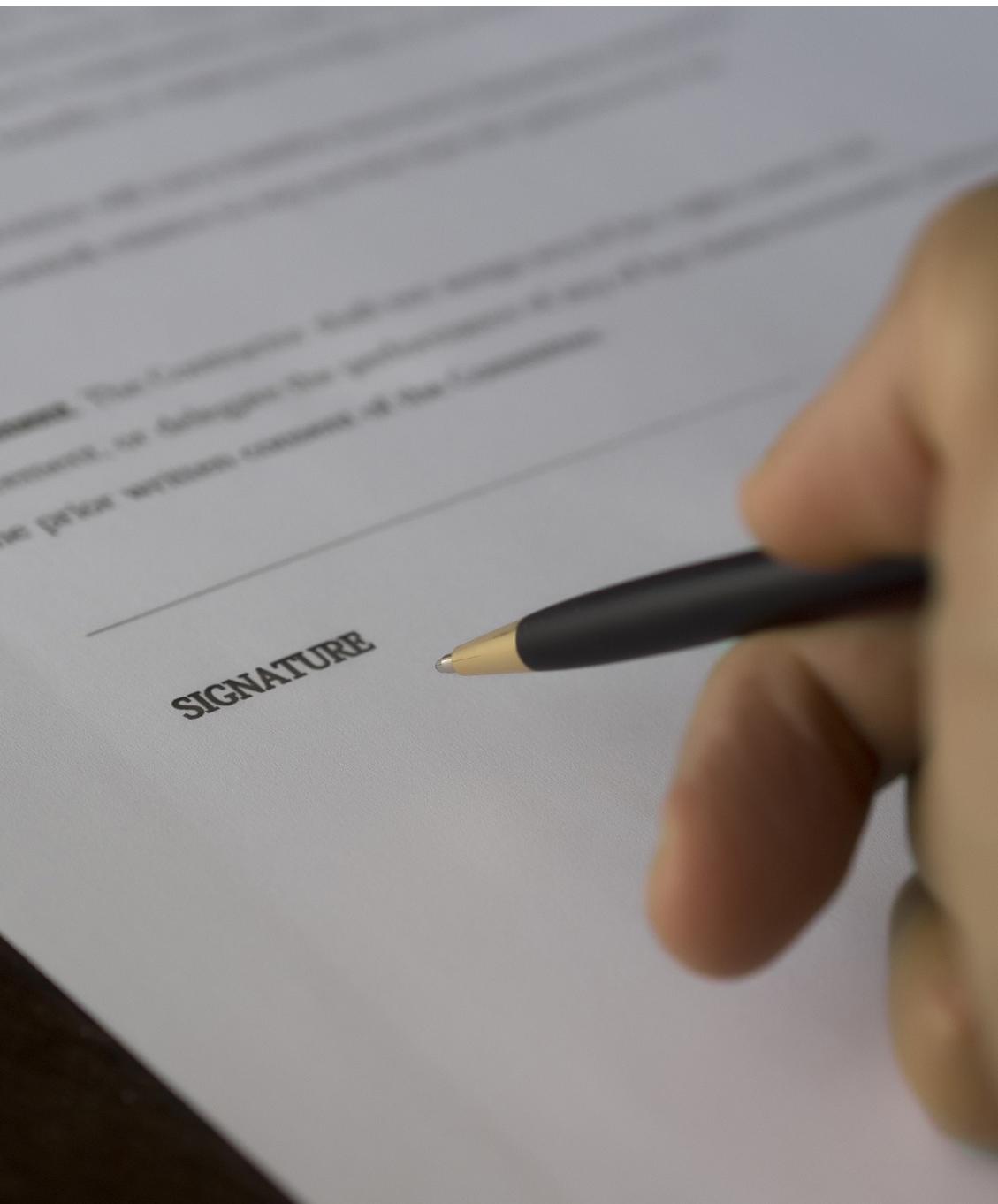
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Complaints against solicitors and other lawyers

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Summary

This briefing paper deals with the current procedure and qualifying criteria for making complaints against solicitors and other lawyers across the United Kingdom.

In each jurisdiction, anyone who is dissatisfied with the service provided by their lawyer should first complain directly to them.

England and Wales

The Legal Ombudsman is responsible for dealing with complaints about poor service against lawyers in England and Wales.

Issues of professional misconduct are dealt with by the relevant “approved regulator” – for example, the Bar Standards Board (for barristers) and the Solicitors Regulation Authority (for solicitors).

Scotland

The Scottish Legal Complaints Commission (SLCC) deals with complaints about inadequate professional service against legal practitioners in Scotland.

The SLCC passes complaints about the conduct of legal practitioners to the appropriate professional organisation to investigate.

The SLCC can look at the way a conduct complaint was handled by a professional organisation.

In October 2018, the report of a Review of the Regulation of Legal Services, which was set up by the Scottish Government, recommended, among other things, the creation of a single, independent regulator for all providers of legal services in Scotland who should be responsible for complaints handling.

In June 2019, the Scottish Government published a formal response to the report and outlined how it intended to proceed. The Scottish Government said it was working with the Law Society of Scotland, the Faculty of Advocates and the Scottish Legal Complaints Commission to identify and consider improvements that might be made to the legal complaints system in the interim without the requirement for primary legislative change.

Northern Ireland

In Northern Ireland, the Law Society of Northern Ireland deals with complaints against solicitors, and the Professional Conduct Committee of the Bar Council of Northern Ireland considers complaints against barristers. When fully implemented, the Legal Complaints and Regulation Act (NI) 2016 will provide for a new complaints process which will move away from a system where legal professionals handle their own complaints process, to one where lay people lead the process.

1. Complaints against lawyers in England and Wales

1.1 The Legal Ombudsman

Legal Services Act 2007

The Legal Services Act 2007 established a new framework for the regulation of legal services in England and Wales. Among other reforms, the Act established the Office for Legal Complaints (OLC) to administer an ombudsman scheme to deal with consumer complaints about legal services.

The OLC is an independent body, established by the Legal Services Board (which is responsible for overseeing the regulation of all lawyers in England and Wales) and sponsored by the Ministry of Justice. Its role is to administer the Legal Ombudsman scheme, including to make its scheme rules, and to oversee that scheme's performance.¹

Complaints to the Legal Ombudsman

From 6 October 2010, the Legal Ombudsman, established by the OLC, has dealt with complaints against all lawyers registered in England and Wales. The Legal Ombudsman replaced the previous complaint handling bodies.

The Legal Ombudsman can consider complaints about service providers who are regulated. These include:

- Solicitors
- Barristers
- Licensed conveyancers
- Cost lawyers
- Legal executives
- Notaries
- Patent attorneys
- Trade mark attorneys; and
- Some accountants providing probate services.

Most providers display their regulation number on their website and correspondence.²

The Legal Ombudsman provides this summary of what it does:

The Legal Ombudsman resolves complaints about legal services. It may be that your lawyer has failed to do what they agreed, has been slow in responding, or increased their charges without

¹ Letter dated 17 October 2016 from Sir Mike Pitt, the then Chairman, Legal Services Board, to Robert Neill MP, Chair, House of Commons Justice Committee, [Appointment of the Chair of the Office for Legal Complaints](#), 24 March 2017, HC 1075, Appendix B. Unless otherwise stated, all links in this briefing paper accessed 17/18 November 2020

² Legal Ombudsman, [How we work. Legal service providers](#)

explaining why. Perhaps you think you've been unreasonably refused a legal service or have been pressured to accept a service you didn't want.

We will investigate your complaint and look at all the facts to reach a fair outcome. We are independent, impartial and we don't take sides. If we decide the service you received was unreasonable, we can make sure your lawyer or law firm puts it right.

Our service is free to consumers.³

[Contact details for the Legal Ombudsman](#) are available online.⁴

The regulation of Claims Management Companies (CMCs) was transferred to the Financial Conduct Authority (FCA) on 1 April 2019. The FCA provides information about the handling of complaints about CMCs:

From today [1 April 2019], the [Claims Management Ombudsman](#), a Financial Ombudsman Service, will take on responsibility for resolving complaints about CMCs from the Legal Ombudsman – as the regulation of these companies transfers to the FCA. Just like the Legal Ombudsman previously did, the ombudsman service will now be able to look at complaints about CMCs who work in a range of sectors, including financial services, personal and criminal injury, housing disrepair, specified benefit and employment. Complaints about CMCs can now be brought directly to the Financial Ombudsman Service, and those already with the Legal Ombudsman are being transferred across.⁵

Scheme Rules

The Legal Ombudsman [Scheme Rules](#) set out how the Legal Ombudsman undertakes investigations and makes decisions about complaints. They also set out who can complain and about what. The Legal Ombudsman has published [guidance](#) on the Scheme Rules.

The rules are approved by the Legal Services Board and the Lord Chancellor, as required by the Legal Services Act 2007.

The Scheme Rules are revised from time to time. The current version is dated 1 April 2019.⁶

1.2 Who may complain to the Legal Ombudsman?

The [Scheme Rules](#) set out who can complain to the Legal Ombudsman:

2.1 A complainant must be one of the following:

- a) an individual;
- b) a business or enterprise that was a micro-enterprise (European Union definition) when it referred the complaint to the authorised person;^[7]

³ Legal Ombudsman, [Here to help](#)

⁴ Legal Ombudsman, [Contact us](#)

⁵ Financial Conduct Authority press release, [Claims management companies enter FCA regulation today](#), 1 April 2019

⁶ Legal Ombudsman, [Scheme Rules](#)

⁷ "Authorised person" is defined in Rule 1.7

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- c) a charity that had an annual income net of tax of less than £1million when it referred the complaint to the authorised person;
- d) a club/association/organisation, the affairs of which are managed by its members/a committee/a committee of its members, that had an annual income net of tax of less than £1million when it referred the complaint to the authorised person;
- e) a trustee of a trust that had an asset value of less than £1million when it referred the complaint to the authorised person;
or
- f) a personal representative or beneficiary of the estate of a person who, before he/she died, had not referred the complaint to the Legal Ombudsman.

For (e) and (f) the condition is that the services to which the complaint relates were provided by the respondent to a person –

- a) who has subsequently died; and
- b) who had not by his or her death referred the complaint to the ombudsman scheme.

Complaints from non-clients

The Legal Ombudsman's [guidance on the Scheme Rules](#) sets out information about complaints from non-clients:

Do you accept complaints from non-clients?

Yes. We often receive jurisdiction challenges from lawyers who state the person complaining was not their client.

Our Scheme Rules do not state that the complainant has to be a client of the firm in order to fall within our jurisdiction. Instead, Scheme Rules 2.8(a) and (d) say the complaint "must relate to services which the authorised person provided to the complainant" or "offered, or refused to provide, to the complainant".

In relation to Scheme Rule 2.8(a), this means if the complainant is receiving the benefit of a service, even if they did not directly instruct the lawyer or pay their fees, they fall within our jurisdiction.

In relation to Scheme Rule 2.8(d), we will expect the complainant to provide evidence to show the refusal to provide a service was unreasonable before we accept the complaint for investigation.

1.3 The complaints process

Anyone who is dissatisfied with the service provided by their lawyer should first complain directly to them. The lawyer should have in place a complaints handling procedure. They have up to eight weeks to deal with the complaint.

If the matter cannot be resolved in this way, the complaint may then be referred to the Legal Ombudsman (within the specified time limits).⁸

The Legal Ombudsman makes decisions based on the circumstances involved:

⁸ The time limits are set out below in section 1.5 of this briefing paper

Anything we tell the service provider to do to put things right will always be based on the individual circumstances of the complaint and what the impact of the poor service has been.⁹

The Legal Ombudsman will first try to resolve the complaint by agreement, but if this does not succeed, the next stage of the procedure is as follows:

What if my service provider and I can't agree?

Our aim is to resolve complaints by agreement. If an agreement can't be reached the investigator will set out their views in writing. This is called a case decision. If the investigator identifies service that has had a negative effect on you, they may suggest that something needs to be done to put things right.

We send the case decision to both you and the service provider for you to tell us what you think. When you respond, you should focus on letting us know:

- If any of the facts we have used are incorrect
- If you have further evidence that we have not yet seen but you believe is relevant
- If you accept or reject the investigator's view
- If you reject their view, briefly explain why.

If you and your service provider agree with the investigator's view, we will treat your complaint as resolved.

If you disagree, let your investigator know your reasons why and confirm if you would like an ombudsman to make a final decision.

If you don't respond to the case decision within the timescale provided, or if you don't tell us that you disagree with it, we'll treat your complaint as resolved. We'll close the case and take no further action. We don't normally reopen cases other than in exceptional circumstances.¹⁰

If either party does not accept the investigator's case decision, they can ask for a final ombudsman's decision:

Can I ask for an ombudsman to look at my complaint?

If you disagree with the investigator's view and ask for a final decision, the ombudsman will review the case, including your reasons for disagreeing with the investigator, and make a final decision. This will be confirmed to you and the service provider in writing.

An ombudsman takes a fresh look at the complaint and may reach a different view of what is appropriate to resolve it. Their decision could be quite different from the case decision, so please bear that in mind. The final decision may be more or less favourable to you.

After an ombudsman has made their final decision, we will ask you if you accept it. If you do, then the service provider must do what is asked of them. This is the end of our process and means you won't be able to have the same complaint looked at again. Accepting a final decision also stops you from taking any legal action in relation to the same complaint.

⁹ Ibid

¹⁰ Legal Ombudsman, [Investigating your complaint](#)

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If you reject the final decision or don't tell us what you think about it, the service provider does not have to do what is asked of them. In these circumstances, your case will be closed and we will not take any further action. You would be free to make any other claim in relation to your complaint or seek independent legal advice. You will not be able to bring the same complaint back to us.

Once a final decision has been made our investigation of your complaint is over.¹¹

The Legal Ombudsman has published a range of [consumer resources](#) which deal with the complaints process.

1.4 Remedies

If a complaint is upheld, the Legal Ombudsman may require the service provider to:

- apologise;
- give back any documents that the complainant might need;
- do more work for the complainant if this will correct what went wrong;
- refund or reduce the legal fees; or
- pay compensation to someone who has lost out or been badly treated.¹²

The Legal Ombudsman can award compensation of up to £50,000,¹³ but states most awards are under £1,000.¹⁴

1.5 Time limit for complaints

The legal services provider generally has eight weeks to respond to a complaint made to them. If the complainant is unhappy with the final response or if the service provider has not responded within the eight weeks, the complaint may then be referred to the Legal Ombudsman.¹⁵

A complaint to the Legal Ombudsman must generally be made within six months of the service provider's final response.

The Scheme Rules set out the time limits for making a complaint to the Legal Ombudsman:

Ordinarily:

a) the act or omission, or when the complainant should reasonably have known there was cause for complaint, must have been after 5 October 2010; and

b) the complainant must refer the complaint to the Legal Ombudsman no later than:

- six years from the act/omission; or

¹¹ Ibid

¹² Legal Ombudsman, [Here to help. What we can do to put things right](#)

¹³ Legal Ombudsman, [Scheme Rules, Rule 5.43](#)

¹⁴ Legal Ombudsman, [Here to help. What we can do to put things right](#)

¹⁵ Legal Ombudsman, [Scheme Rules, Rule 4.2](#). This rule also sets out when a complaint might sometimes be made sooner

- three years from when the complainant should reasonably have known there was cause for complaint.¹⁶

The Scheme Rules also specify that the question of when a complainant should reasonably have known that there was a cause for complaint will be assessed on the basis of the complainant's own knowledge, disregarding what the complainant might have been told had they sought advice.¹⁷

If the Legal Ombudsman considers that there are exceptional circumstances, they may extend the time limits to the extent that they consider fair.¹⁸ The Scheme Rules provide the following examples:

For example, an Ombudsman:

- a) might extend a time limit if the complainant was prevented from meeting the time limit as a result of serious illness; and
- b) is likely to extend a time limit where the time limit had not expired when the complainant raised the complaint with the authorised person.¹⁹

1.6 Complaints about misconduct

The Legal Ombudsman deals with complaints about poor service. Issues of professional misconduct are dealt with by the relevant "approved regulator" – for example, the Bar Standards Board (for barristers) and the Solicitors Regulation Authority (for solicitors).

The Solicitors Regulation Authority sets out the types of complaints they deal with and which the Legal Ombudsman deals with:

Solicitors Regulation Authority or Legal Ombudsman?

The Solicitors Regulation Authority could help you if you think a solicitor might be dishonest or you have concerns about their behaviour.

Examples include:

- Shutting down their law firm without telling you.
- Dishonesty or deliberately overcharging you.
- Taking or losing your money.
- Treating you unfairly because of your age, a disability or other characteristic.

Find out [how to report a solicitor or firm to the SRA](#)

The Legal Ombudsman could help you if you are not happy with your solicitor's work or service and need to put things right.

Examples include:

- Not replying to your emails, letters or calls.
- Losing your documents or giving you unclear advice.
- Charging you an amount you are not happy with.

¹⁶ Legal Ombudsman, [Scheme Rules, Rule 4.5](#)

¹⁷ Legal Ombudsman, [Scheme Rules, Rule 4.6](#)

¹⁸ Legal Ombudsman, [Scheme Rules, Rule 4.7](#)

¹⁹ Legal Ombudsman, [Scheme Rules, Rule 4.8](#)

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- Not explaining issues properly so you do not understand.

Find out how the [Legal Ombudsman](#) could help you.²⁰

The Solicitors Regulation Authority also provides further information, including:

- SRA, [Problems and complaints](#);
- SRA, [Reporting an individual or firm](#).

²⁰ Solicitors Regulation Authority, [Reporting an individual or firm, Who can help when there's a problem with a solicitor or law firm?](#)

2. Complaints against lawyers in Scotland

2.1 The Scottish Legal Complaints Commission

The [Scottish Legal Complaints Commission](#) (SLCC) was set up under the Legal Profession and Legal Aid (Scotland) Act 2007 and started dealing with complaints on 1 October 2008.²¹ The SLCC acts as a single point of contact for all complaints against lawyers in Scotland - solicitors, advocates, commercial attorneys, and licensed conveyancers.²²

The SLCC operates independently of the Scottish Government and of the Scottish legal profession.²³ It does not charge a fee for investigating a complaint.

The SLCC deals with complaints about poor service. Complaints about conduct are investigated by the relevant professional body (e.g. Law Society of Scotland for solicitors).²⁴

2.2 The complaints process

The complainant must first complain to the service provider and allow them at least 28 days to provide a full response. If the complaint cannot be resolved in this way, it may be lodged with the SLCC.

The SLCC website provides detailed information about the various stages of the complaints process:

- [Our process](#)
- [What we do and how it works](#)
- [Frequently asked questions](#)
- [Leaflets](#).

2.3 Remedies

If the SLCC upholds a service complaint they may take whatever steps they consider fair and reasonable. They can:

- ask the practitioner to adjust their fees;
- ask the practitioner to re-do work;
- direct the practitioner to take other action they specify;
- direct the practitioner to pay compensation where someone has been affected;
- report the practitioner to the relevant professional body if there is a competence or conduct issue

Detailed information about what the SLCC can decide to do is available in their [Policy and Procedure Manual](#).

²¹ Scottish Legal Complaints Commission, [Our history](#)

²² Scottish Legal Complaints Commission, [Who we are](#)

²³ Scottish Legal Complaints Commission, [FAQs, Is the SLCC independent?](#)

²⁴ Scottish Legal Complaints Commission, [Eligibility](#)

2.4 Third party complaints

The SLCC may deal with third party complaints – that is, complaints about a practitioner who did not act for the complainant. The SLCC’s webpage [Third Party Complaints](#), provides further information.

2.5 Time limits for complaints

The relevant time limit depends on the nature of the complaint, but complaints should be made as soon as possible.

The time limit changed on 1 April 2017. The SLCC provides the following information:

If the complaint, or part of it, is about inadequate service a practitioner or firm has provided **you**, the time limit is:

- If the date from which you were **first** provided with a service in connection with that specific piece of legal work is on or after 1st April 2017, within 3 years after the date on which you were **last** provided with a service in connection with the specific piece of legal work you are complaining about
- Otherwise, within 1 year after the date on which you were last provided with a service in connection with the specific piece of legal work you are complaining about

If the complaint, or part of it, is about inadequate service a practitioner or firm has provided **someone else** ([what we call a third party complaint](#)), the time limit is:

- Within 3 years after the specific act or omission you are complaining about occurring, if it occurred on or after 1st April 2017
- Otherwise, within 1 year after the specific act or omission you are complaining about occurring

If the complaint, or part of it, is about the conduct of the practitioner or the practitioner being convicted, the time limit is:

- Within 3 years after the occurrence of the alleged conduct you are complaining about or the date of the conviction occurring, if it occurred on or after 1st April 2017
- Otherwise, within 1 year after the occurrence of the alleged conduct you are complaining about or the date of the conviction occurring

When checking the time limits, we don’t include any time you were excusably unaware of the alleged conduct or inadequate professional services

- An example of this might be a problem when you bought your house that only came to light when you tried to sell it at a later date.
- This doesn’t include being unaware that you could make a complaint to us.

Don't worry if you're not sure if your complaint is about inadequate professional service or conduct – this is something we will decide.²⁵

The SLCC website also sets out examples of when a complaint might be accepted outside of the time limits where the SLCC considers :

- There are exceptional reasons why the complaint was not made sooner;
- There are exceptional circumstances relating to the nature of the complaint; or
- It is in the public interest to proceed to take further steps in respect of the complaint.²⁶

Detailed information about time limits is available in the [SLCC Rules](#).

2.6 Complaints about misconduct

All complaints start at the SLCC but if the complaint is about conduct, and the SLCC decides it should be investigated, they will refer it to the relevant professional body.²⁷

The Law Society of Scotland provides information, [How we investigate conduct complaints](#).

The SLCC can look at the way a conduct complaint was handled by a professional organisation, such as the Law Society of Scotland or the Faculty of Advocates. The SLCC calls this a “handling complaint”. Further information is available on the SLCC website, [‘Handling’ complaints](#).

2.7 Further information

Mygov.scot has an overview, [Complain about solicitor or advocate](#).

2.8 Independent Review of Legal Services Regulation in Scotland

In 2017, the Scottish Government asked Esther Robertson to conduct an [independent review of the regulation of legal services in Scotland](#). The Report of the Review, [Fit for the Future](#), was published in October 2018.

Among other things, the Review recommended the creation of a single, independent regulator for all providers of legal services in Scotland who should be responsible for complaints handling:

There was a consistently expressed and strongly held view that the current complaints system was not fit for purpose. I concluded that the new legislation should require the new regulator to take on responsibility for complaints handling. I realise this has significant implications for the Scottish Legal Complaints Commission as the organisation as currently constituted would be wound up and the responsibilities transferred to the new body.

²⁵ SLCC, [Time limits](#)

²⁶ Ibid

²⁷ SLCC, [Making a complaint](#)

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The new legislation should require the regulator to develop a new single gateway complaints handling system for those it regulates driven by consumer principles. For instances of harm, the regulator should also be required to develop appropriate, flexible and fair sanctions, rules for proportionate compensation and a simple process for appeals.²⁸

The Scottish Government published its formal response to the report in June 2019, [Independent review of legal services regulation in Scotland: our response](#). This includes a summary of how the Scottish Government intends to proceed:

The Scottish Government is working with the Law Society of Scotland, the Faculty of Advocates and the Scottish Legal Complaints Commission to identify and consider improvements that may be made to the legal complaints system in the interim without the requirement for primary legislative change.

We will publish a public consultation to seek to build consensus on the way forward with regard to the future of the legal services regulatory framework for Scotland, this will include a range of options. That will be used to develop primary legislation for introduction to the Scottish Parliament.

In moving this work forward it will be critical to have the constructive engagement of stakeholders; and the Scottish Government is committed to working in partnership to deliver proposals for a reformed legal services regulatory framework in Scotland. The time given by stakeholders is very valuable and greatly appreciated and we look forward to continuing that work over the coming months and beyond.²⁹

On 24 February 2020, Ash Denham, Minister for Community Safety, answered a Scottish Parliamentary question and indicated that the Scottish Government was working with the Law Society of Scotland, the Faculty of Advocates and the Scottish Legal Complaints Commission on how the legal complaints system might be improved using existing legislative powers:

The Report of the Independent Review of Legal Services Regulation in Scotland considered what changes may be required to the statutory framework for the regulation of legal services to protect consumer interests and promote a flourishing legal sector.

The Scottish Government response to the Review recognised the differing views with regard to some of the review's main recommendations. We are now working collaboratively with those in the current regulatory framework, and consumer organisations, to construct a consultation paper which will provide the opportunity to develop a new statutory framework for a modern, forward-looking legal service regulatory and complaint system for Scotland. That consultation will be published in the coming months.

The Scottish Government is also working with the Law Society of Scotland, the Faculty of Advocates and the Scottish Legal Complaints Commission to identify and consider improvements that may be made to the legal complaints system using existing

²⁸ Esther A Robertson, [Fit for the Future, Report of the Independent Review of Legal Services Regulation in Scotland](#), October 2018, p5

²⁹ [Scottish Government, Independent review of legal services regulation in Scotland: our response](#), 25 June 2019 p6

legislative powers. These may require Regulations and we would expect to consult on any proposals to make changes to the legal complaints system with key stakeholders and other interested parties.³⁰

3. Complaints against lawyers in Northern Ireland

3.1 Complaints against solicitors: current system

Solicitors are required to have their own in-house complaints procedure.³¹ A complaint must be raised with the solicitor concerned, within six months of completion of the business or within six months of the complainant discovering a cause for concern, whichever is later. The solicitor should usually respond within 28 days.³²

If this does not resolve the matter, a complaint may be made, within a further six months, to the Law Society of Northern Ireland. The Law Society deals with complaints about both poor service and professional misconduct. The Law Society does not investigate and provide redress where the complaint is about someone else's solicitor.³³

The Law Society's complaints procedures are overseen by the Client Complaints Committee which consists of both solicitors and lay members.

The Lay Observer, appointed by the Government in consultation with the Lord Chief Justice, receives and examines guidelines about the complaints process operated by the Law Society of Northern Ireland and about the way the Client Complaints Committee in the Law Society handles complaints about solicitors. The Lay Observer:

- comments on the process used by the Law Society and on the quality of the service provided;
- examines individual allegations about the way the Society has treated a particular complaint;
- makes a formal annual report to the Lord Chief Justice of Northern Ireland, the Government and the Council of the Law Society on the nature of complaints to the Society and how they are dealt with.³⁴

The Office of the Immigration Services Commissioner oversees the Law Society's handling of immigration complaints.

The Law Society of Northern Ireland website has a section on [Making a complaint](#) and a publication [Making a complaint about YOUR solicitor](#) which provides further information including about:

- the types of issues which the Law Society may consider to be inadequate service or professional misconduct;
- how to lodge a complaint with the Law Society;
- how the Law Society investigates a complaint;

³¹ Law Society of Northern Ireland, [Contacting your solicitor to make a complaint](#)

³² Law Society of Northern Ireland, [Making a complaint, Beginning the process](#)

³³ Law Society of Northern Ireland, [Making a complaint about YOUR solicitor](#), p4

³⁴ [The Lay Observer for Northern Ireland website](#)

- when the Law Society is unable to help;
- how the Law Society might conclude an investigation;
- the Solicitors' Disciplinary Tribunal;
- complaints about costs.

When the Society concludes an investigation, it may:

1. Find that the solicitor has been guilty of inadequate service or professional misconduct.
2. If the solicitor has given inadequate professional service, the Society can also exercise its statutory powers to impose certain sanctions which include:
 - (i) Determining the costs to which the solicitor is entitled be limited to a specific amount, having regard to standard of the service provided.
 - (ii) Directing the solicitor to take such steps for the completion of the matter within such reasonable time as the Society may specify.
 - (iii) Directing the solicitor to secure rectification of any error or omission or other deficiency.
 - (iv) Directing the solicitor to take any other action which the Society thinks is necessary in your interests at the solicitor's expense.
3. In more serious cases of professional misconduct, the Society can prosecute the solicitor before the Solicitors' Disciplinary Tribunal.
4. It may conclude that the solicitor's actions have been in order and your complaint is not upheld.³⁵

3.2 Complaints against barristers: current system

The Bar Council of Northern Ireland regulates barristers. Complaints are considered and investigated by the Professional Conduct Committee of the Bar Council of Northern Ireland. Information is provided on the Bar of Northern Ireland website, [Making a complaint](#).³⁶

3.3 New complaints process anticipated: solicitors and barristers

The [Legal Complaints and Regulation Act \(NI\) 2016](#) (the 2016 Act) provides for a new complaints process which will move away from a system where legal professionals handle their own complaints process, to one where lay people lead the process.³⁷ The 2016 Act created a new public office, the Legal Services Oversight Commissioner. A news

³⁵ Law Society of Northern Ireland, [Making a complaint about YOUR Solicitor](#), 2020, pp6-7

³⁶ The Bar of Northern Ireland, [Making a complaint](#)

³⁷ Department of Finance, [First Legal Services Oversight Commissioner appointed](#), 20 February 2017

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release on the Northern Ireland Department of Finance website provides further information about the role of the Commissioner:

The Commissioner will be an independent officer responsible for making provisions regarding complaints against members of the legal profession. The Commissioner will not be directly involved in assessing complaints but will have an important role in overseeing the introduction of the new system and monitoring the effectiveness of the new structures.³⁸

Mrs Marian Cree was appointed to serve as the first Legal Services Oversight Commissioner for a period of three years from 3 April 2017. Mrs Cree was also appointed to undertake the role of Lay Observer until the new structures for handling complaints against the legal profession are fully in place.³⁹

In March 2020, Mrs Marian Cree was reappointed as Legal Services Oversight Commissioner for a further three years until April 2023. She will also continue her role of Lay Observer until new structures for handling complaints are fully in place.⁴⁰

The 2016 Act followed the 2006 report published by the Legal Services Review Group, chaired by Professor Sir George Bain, entitled, "Legal Services in Northern Ireland: Complaints, Regulation, Competition", and also a draft Bill. The report contained 42 recommendations aimed at improving the existing system, primarily in the context of complaints handling by professional bodies.⁴¹

The main recommendations in the Bain report included:

- a proposal to reform the complaints-handling system of the Law Society and the Bar Council;
- a proposal to create the post of Legal Services Oversight Commissioner to oversee both branches of the profession;
- other recommendations relating to competition.⁴²

The [Explanatory Notes](#) published with the 2016 Act summarise the recommendations of the Review Group for a new complaints handling process, and how these recommendations are dealt with in the Act:

The Review Group found that in general terms the existing system of regulation of lawyers had worked reasonably well, and that problems and solutions identified and implemented in other jurisdictions were not appropriate for Northern Ireland. However, it did identify certain areas, principally relating to complaints handling, where change could assist the consumer and improve the existing regulatory framework. It therefore made a number of recommendations on complaints handling designed to move the procedures away from professionally-led consideration to a system where functionally separate and lay-led complaints committees

³⁸ Department of Finance, [First Legal Services Oversight Commissioner appointed](#), 20 February 2017

³⁹ Ibid

⁴⁰ Department of Finance, [Reappointment of the Legal Services Oversight Commissioner](#), 24 March 2020

⁴¹ *Legal Complaints and Regulation Act (Northern Ireland) 2016* [Explanatory Notes](#), paragraph 3

⁴² Department of Finance, [Review of legal services in Northern Ireland](#)

would determine cases. Such committees would have greater powers, including the power to award compensation. The Review Group also recommended enhanced oversight of the system by way of a Legal Services Oversight Commissioner (“LSOC”) and recommended tougher powers for such an office holder.

The general policy recommendations outlined by the Group have been translated into concrete legislative provisions in the Act. The policy of the Act is to create the position of LSOC as recommended, and the Act sets out the powers that office holder should have. Those powers are strategic – the LSOC will not have operational responsibilities in terms of specific complaints – and will be concentrated on oversight of the complaints-handling systems of the Law Society and, for the first time, the Bar. Those powers include the power to investigate how complaints are handled by the relevant professional body, the power to set targets in relation to complaints handling, the power to require a professional body to submit plans relating to complaints handling, and the power to penalise the professional body in certain circumstances. The LSOC will also have the power to gather information relating to complaints at the first tier – those complaints that are made to individual solicitors’ practices, or about individual barristers through the scheme administered on behalf of barristers by the Bar Council. The postholder must include statistical information on first tier complaints in the Annual Report, in order to help inform the overall complaints-handling process.⁴³

The Explanatory Notes also outline how it is envisaged that complaints against lawyers will be dealt with:

New complaints-handling systems are provided for in the Act. The Review Group recommended that Complaints Committees should be administered and maintained by the relevant professional bodies, and be constituted of a majority of lay people, with a lay person in the Chair.

It is envisaged that in the majority of cases, a complaint made against a lawyer will be dealt with in-house in order to attempt a speedy and satisfactory resolution. For solicitors, this will mean the complaints being considered by the firm’s in-house process first. For barristers, it will mean the complaint being dealt with by the body set up by the Bar to assist with early resolution of complaints. Irrespective of the model for formal resolution in other jurisdictions, this first step is common throughout all jurisdictions that examine complaints.

Should this step not prove successful, or be deemed unsatisfactory by the complainant, the complaint will, providing it meets the statutory criteria, be eligible for formal consideration by the relevant Complaints Committee. This Committee will be armed with enhanced powers and will be able to consider a broader range of cases. As per the recommendation of Bain, this will include the power to consider negligence cases with a maximum value of £5,000. Appeals to the High Court will be available against determinations of the Complaints Committee in specified cases, such cases to be outlined in regulations.⁴⁴

⁴³ *Legal Complaints and Regulation Act (Northern Ireland) 2016* [Explanatory Notes](#), Paragraphs 6 and 7

⁴⁴ *Legal Complaints and Regulation Act (Northern Ireland) 2016* [Explanatory Notes](#), paragraphs 10 to 12

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