

**Office of the Legal Services  
Complaints Commissioner**

**Annual Case File Audit  
November 2005**

## **INTRODUCTION**

The Office of the Legal Services Complaints Commissioner (OLSCC) Investigations team completed its Annual Case File Audit of the Law Society in October 2005, the results of which are presented in this report. The Annual Case File audit was conducted in line with the Audit Plan that was shared with the Law Society in August 2005.

The intention of the annual casefile audit is to assess whether there have been improvements in performance against previous audits (in this case the baseline audit of May 2005), to investigate application of controls and procedures and to inform any future work by the Commissioner in relation to setting targets for areas that require improvement.

A total of 513 files were audited out of a total closed population of 3,151 and the sample was drawn from files closed in June and July 2005. Files were selected to be representative of the profile of case closures over the specified period and therefore ranged in age from a few months to a number of years. The sample of files was broken down into 280 service cases and 233 conduct cases.

In order to use the two samples together, a weighting system is used to account for the fact that our combined sample comprises 55% service cases and 45% conduct cases.

Further details of the file sampling methodology used can be found in the technical appendices to this report.

A number of issues were identified which are discussed in the Executive Summary and in more detail in the main body of the report.

## **EXECUTIVE SUMMARY**

This report details the findings of the Office of the Legal Services Complaints Commissioner (OLSCC) Annual Case File Audit. The OLSCC conducts independent audits to assess the Law Society's performance in the handling of consumer complaints about solicitors.

The audit sample was drawn from files closed in June/July 2005 and 513 files were reviewed from a total closed population of 3,151 files. Comparisons have been made to the baseline audit undertaken in May 05, which analysed files closed in July/August 2004 and November/December 2004. In that audit 328 files were reviewed from a closed population of 5,762 files.

### **Key findings**

The key findings from the Annual Case File Audit are:

- there is no evidence that the proportion of cases experiencing delay has changed from the baseline audit and no evidence of a reduction in the average delay experienced on case files
- Law Society caseworkers were not sufficiently robust in their dealings with solicitors regarding obtaining responses to complaints and there is no evidence of progress tracking by caseworkers when files were referred to third parties
- the vast majority of cases had issues correctly identified on first contact with the consumer and when contacting the solicitor
- Law Society caseworkers should take between 6 and 8 weeks to produce the formal report used to adjudicate complaints but were taking on average 20 weeks
- advice from consultant caseworkers was not followed in almost a fifth of cases
- almost a half of cases aged 6 months and over did not have the Law Society's ex-gratia policy applied correctly
- the assessment of cases at the outset remains an area where further improvements need to be made. Case management plans were not fully completed in over 8 out of 10 cases and in over 9 out of 10 cases opening letters to the consumer did not contain the required information
- the vast majority of cases correctly met the policy guidelines on content of closure letters and addressed all issues on closure of the file

## Summary of findings

A number of issues were identified through the audit of case files. These were generally similar to those found in the baseline audit and related to:

### 1 Delays in Law Society complaint handling

57% (weighted) of cases experienced delay against the 56% (weighted) that were identified in the baseline audit. We can therefore conclude, with 95% confidence level, that there is no evidence that the proportion of cases experiencing delay has changed from the baseline audit. Average length of delay apportioned across all cases is 95.14 days (weighted) in this audit compared to 100.12 days (weighted) in the baseline audit. This again leads us to conclude that there is no evidence of a reduction in the average delay experienced on case files. This means that consumers continue to suffer significant delay in the handling of their complaints.

### 2 Active case management by the Law Society

In the baseline audit various areas were identified that we felt warranted further investigation. A number of these have been considered further in this audit. They are:

- Controlling referral to third parties
- Obtaining responses from solicitors
- Period of time to refer cases for adjudication
- Case Worker Advice sessions – taking advice and acting upon it promptly
- General state of file, orderly, chronological, legible.
- Utilisation and completion of forms

In terms of referral to third parties, we found similar issues to those identified on the baseline audit. Where cases were referred to Local Conciliation Officers (LCOs) and outsourcing firms (firm who handle complaints on behalf of the Law Society) there was no evidence of progress tracking by caseworkers and against a Law Society target of 6 weeks, cases were with LCOs for an average of 19 weeks. The target for return of files from outsource firms is 12 weeks, yet the average number of weeks that files remained with the firms was 16 weeks. The Law Society may wish to consider how they might more actively manage the return of referred files, in order to avoid delay for the consumer.

During the Law Society process of obtaining responses from solicitors the evidence showed that caseworkers were not sufficiently robust in their dealings with them. They only used powers in 10 cases (18%) where the solicitor did not respond within agreed timescales. It can be concluded that using the Law Society's regulatory powers more appropriately in line with policy guidelines may help to enforce responses.

The formal report (prepared by the caseworker dealing with the matter) which is required as part of the adjudication process should take between 6 and 8

weeks to produce. However the evidence showed that caseworkers were taking on average 20 weeks to write this report, with the longest case taking 70 weeks. As there is no set target for completion of the report, the Law Society may wish to consider setting firm timescales around this.

During the handling of a complaint, caseworkers can seek advice from Caseworker Advisers. The evidence showed that on 84 cases where advice was sought, in 19% of cases the advice was not followed. Although it is not mandatory to take the advice it does raise questions as to the value of this role. Also, in 80% of cases there was no monitoring to check whether the advice given had been actioned promptly by Law Society staff.

We found issues with the use of mandatory forms that serve as a tool in actively managing the case file. Where we expected to see a fully completed case management plan we found that they were not fully completed 83% of the time. 34% of ex-gratia payments made did not have the required forms to support the payment and 37% of closure forms were not fully completed. We identified cases where it was obvious that the forms were just being ticked rather than proper consideration being given to the circumstances of the case. It may therefore be suitable for the Law Society to consider rationalising the content of their forms to enable the sifting out of information requested that adds no value to the complaints handling process.

### **3 Quality of complaints handling by the Law Society**

This covered the following areas of the complaint:

- Identification of issues to the consumer and solicitor by the caseworker;
- Assessment of the case at the outset;
- Application of policies and procedures relating to:
  - Excluded matters and Matters outside Law Society's jurisdiction
  - Risk Management Group referrals
  - Conciliation and Reasonable Offer Made
  - Temporary Closures
  - Ex-gratia considerations
- Content of closure letters; and
- Addressing of issues on closure.

When examining quality, this addressed how well the Law Society handled consumer complaints throughout the end-to-end process. This concentrated on the Law Society caseworkers' appropriate application of policies, procedures and guidelines and concentrated specifically on those areas where consumers would benefit as a result of improvements being made.

An important point to note is that regarding policies and procedures the audit investigated whether Law Society staff had implemented or applied these correctly, it does not assess whether these policies are in themselves appropriate. This is an area that may be considered in the future.

The evidence showed good results in most of these areas with caseworkers performing well in correctly identifying issues to the solicitor but less well to the consumer. Assessment of cases at the outset remains an area where further improvements need to be made. We found that 22% of cases that experienced an allocation delay were closed within 4 weeks of being allocated. This suggests that if they had been more thoroughly assessed at the outset they could have been closed more quickly.

Application of policies and procedures were positive in most areas with the exception of ex-gratia payments. The results here were poor with correct application of policy guidelines being found in only 56% of those cases aged 6 months and over. Given that this is when cases are most likely to warrant a payment this is an area for concern as it suggests there is a lack of consistency for consumers in the decisions being made.

#### **4 Law Society Consumer Standards**

We evaluated the Law Society's achievement against its own consumer standards introduced post January 2005. We found that 63% of cases were not acknowledged within 5 working days. The timeframe within which the consumer should be issued with a substantive response to their complaint was not met in 51% of cases. The opening letter to the consumer should contain certain information, however, our findings showed that 93% of letters issued did not contain the required information. To break this figure down, 69% of letters did not make reference to the internal complaints procedure and 90% of letters did not advise the consumer that their complaint might be copied to the solicitor about whom the complaint has been lodged.

With regard to closure letters the Law Society performed better, 96% of closure letters contained the correct information.

The evidence also showed that in 77% of relevant cases caseworkers advised the consumer of periods of annual leave of over 5 days.

The Law Society policy is that caseworkers should contact the consumer every month. In only 54% of cases that we examined did the caseworker contact the consumer every month. Clearly this is an area for improvement.

#### **5 Other Issues**

There were also areas identified that did not fall into any of the above categories. These are summarised in the 'Other issues' section of the paper but briefly cover the following areas:

- Re-numbering and re-opening of files (in relation to temporary closures); and
- Lay panel referrals.

The use of temporary closures highlighted some issues around the re-opening and re-numbering of files. Although we know that Law Society policy is that where a file is temporarily closed appropriately it should be re-numbered upon any subsequent re-opening, the issue is one of reporting against the timeliness targets. Essentially, the policy on re-numbering means that a single complaint matter may not be resolved for two or possibly three incarnations of the file, which would be reported as a number of quickly closed files rather than the actual time taken to resolve the matter. Almost 8% of the cases audited were reopened following an appropriate temporary closure and would, under the policy, be renumbered.

During the audit, we were expecting to see a wider use of the Lay panel, particularly on those cases aged 18 months or over, as this was part of the Law Society's initiative to resolve older complaints. We saw little evidence of referrals to a lay panel, with only a small number of cases being referred to them as part of the Age Profile project (an initiative to review older cases).

# Audit findings

## 1 Delays in Law Society Complaint Handling

The recording of delays during the casefile audit followed a strict definition. Periods of inactivity lasting at least 30 calendar days were noted, along with the reason for the delay (allocation, failures to respond and so on) and the auditors' opinion of which party were responsible for the delay, be that caseworker, consumer, the solicitor about whom the complaint has been lodged, or a combination of parties.

At the highest level, we are interested in the proportion of casefiles that experience at least one period of delay, regardless of who is responsible for that delay:

**Table 1: Percentage of casefiles experiencing delays**

	Number of casefiles experiencing delay	Number of casefiles audited	Percentage
All (Unweighted)	281	513	55%
All (Weighted)	290	513	57%

Using the weighted result, we can conclude that, with 95% confidence, between 52% and 61% of all cases closed will experience delay. Assuming there will be 18,000 cases closed during the year, this equates to between 9,400 and 10,900 consumers that will experience some period of delay. Looking back to the baseline audit, we found that 56% of cases closed in 2004 experienced delay. In that audit 328 files were reviewed from a total closed population of 5,762. Using the appropriate statistical test, we can conclude, with 95% confidence, that there is no evidence that the proportion of cases experiencing delays has changed. The apparent small differences can be attributed to the random effects of the sampling process.

The average length of the delays experienced is also of interest. The average amount of delay experienced by each case gives us the following table:

**Table 2: Average days of delay on each casefile**

	Number of casefiles audited	Average number of days of delay on each casefile
All (Unweighted)	513	96.76
All (Weighted)	513	95.14

The above table shows that consumers can expect to see an average 95.14 days of delay on every casefile investigated by the Law Society. This weighted average equates to just over 3 months. However, it should also be noted that there were a large proportion of cases that did not experience any delay and conversely, few files that experienced lengthy delays. The largest

total delay recorded on a service complaint was almost 31 months (932 days), and just over 28 months (864 days) on a conduct complaint.

Analysing the data collected during the baseline audit in May 2005 we can calculate that the average delay experienced by each case then was 100.12 days. Using the appropriate statistical hypothesis test, we can conclude, with 95% confidence, that there is no evidence that there has been a reduction in the average delay experienced on casefiles.

The previous results look at the average delay that is experienced by every casefile. Another way to look at the information is to calculate the average length of the delays across only those cases that experienced delay.

**Table 3: Average length of delays experienced**

	Number of casefiles audited	Number of casefiles experiencing delay	Average length of the delays experienced in days
All (Unweighted)	513	281	176.65
All (Weighted)	513	290	169.72

We can interpret this table by saying that when a case experiences delay, we expect that delay to last around 169.72 days, just over 5 and a half months.

Delays on casefiles can be split into two types – allocation delay, and case progress delay. We will first look at the delays relating to allocation.

**Table 4: Percentage of casefiles experiencing allocation delay**

	Number of casefiles audited	Number of casefiles experiencing allocation delay	Percentage
All (Unweighted)	513	239	47%
All (Weighted)	513	246	48%

We can see that almost half of the files audited experienced a delay in allocation to a caseworker. This could either occur at the outset of the case, or when it has been transferred between casework teams. The average allocation delay is shown in the table below:

**Table 5: Average length of allocation delays experienced**

	Number of casefiles audited	Number of casefiles experiencing allocation delay	Average length in days of allocation delays experienced
All (Unweighted)	513	239	104.57
All (Weighted)	513	246	96.47

This shows that among those cases that experienced allocation delay, on average that delay lasted just over 3 months.

Case progress delays occur once the complaint file is with a caseworker. For each period of delay recorded during the audit, information about the reason for the delay and the responsible party was also captured. The reasons for the delay were categorised as:

- Failures to respond;
- Periods of caseworker absence (sickness or other);
- No obvious reason can be seen on the casefile.

The high level occurrence of progress delays are shown in the table below:

**Table 6: Percentage of casefiles experiencing progress delay**

	Number of casefiles audited	Number of casefiles experiencing progress delay	Percentage
All (Unweighted)	513	143	28%
All (Weighted)	513	151	29%

Comparing this with the results in table 4, we can see that cases are less likely to experience progress delay than allocation delay. The average length of progress delays are shown in the following table:

**Table 7: Average length of progress delays experienced**

	Number of casefiles audited	Number of casefiles experiencing progress delay	Average length in days of progress delays experienced
All (Unweighted)	513	143	172.06
All (Weighted)	513	151	169.48

Where a case experiences delay in progress, we expect that delay will last for 169.48 days, just over 5 and a half months.

Looking at combinations of both allocation and progress delay gives us the following tables:

**Table 8a: Number of casefiles experiencing combinations of delay**

	Number of casefiles audited	Number of cases with allocation delay only	Number of cases with progress delay only	Number of cases with both allocation and progress delay
All (Unweighted)	513	138	42	101
All (Weighted)	513	139	44	107

**Table 8b: Percentage of casefiles experiencing combinations of delay**

	Number of casefiles audited	Percentage of cases with allocation delay only	Percentage of cases with progress delay only	Percentage of cases with both allocation and progress delay
All (Unweighted)	513	27%	8%	20%
All (Weighted)	513	27%	9%	21%

The results show that of the 57% of casefiles experiencing delays, almost half are only delayed during allocation to a caseworker. Around one sixth only have delays in progression of the case, leaving around one third that experience both allocation and progress delays.

Analysing the reasons for progress delay gives rise to the following tables:

**Table 9a: Percentage of files with progress delays due to a failure to respond**

	Number of cases that experienced progress delays	Number where delay caused by a failure to respond	Percentage of those with progress delay caused by failure to respond
All (Unweighted)	143	55	38%
All (Weighted)	151	56	37%

**Table 9b: Percentage of files with progress delays due to absence**

	Number of cases that experienced progress delays	Number where delay caused by absence	Percentage of those with progress delay caused by absence
All (Unweighted)	143	22	15%
All (Weighted)	151	23	15%

**Table 9c: Percentage of files with progress delays with no obvious reason**

	Number of cases that experienced progress delays	Number where delay caused by no apparent reason	Percentage of those with progress delay caused by no obvious reason
All (Unweighted)	143	111	78%
All (Weighted)	151	120	79%

These tables show that delays caused by absences contribute the least to overall progress delays on casefiles. In almost 4 in 10 cases that experienced progress delay, the reason was a failure of one party to respond. This could be any party involved – caseworker, the solicitor about whom the complaint had been lodged, or consumer.

In almost 8 out of 10 cases that experienced progress delay, there was no evidence on the casefile to explain why particular periods of inactivity had occurred. Given that, under our definition of delay, these periods lasted at least 30 calendar days, significant amounts of time are being lost without any explanation by the caseworkers.

After investigating the reasons for the delay, we considered which party is responsible for the delay. The data collected during the audit attributed the responsibility to the caseworker, the solicitor about whom the complaint has been lodged, the consumer, or any combination of parties. For example, in a situation where a solicitor has failed to respond to a caseworker, but the caseworker has not pursued a response, that period of delay would be attributable to both the caseworker and the solicitor.

**Table 10a: Percentage of files with progress delay attributable at least in part to the caseworker**

	Number of cases that experienced progress delays	Number where delay attributable to caseworker	Percentage of those with progress delay attributable to caseworker
All (Unweighted)	143	122	85%
All (Weighted)	151	129	85%

**Table 10b: Percentage of files with progress delay attributable at least in part to the solicitor about whom the complaint has been lodged**

	Number of cases that experienced progress delays	Number where delay attributable to solicitor	Percentage of those with progress delay attributable to solicitor
All (Unweighted)	143	39	27%
All (Weighted)	151	40	26%

**Table 10c: Percentage of files with progress delay attributable at least in part to the consumer**

	Number of cases that experienced progress delays	Number where delay attributable to consumer	Percentage of those with progress delay attributable to consumer
All (Unweighted)	143	25	17%
All (Weighted)	151	25	17%

The tables show that it is the caseworkers that are responsible for the majority of progress delays on files. The figure of 85% in table 10a means that of cases that experienced progress delay, the caseworker is at least in part responsible for some or all the progress delay on the case. The following two tables refine the information in table 10a:

**Table 11a: Percentage of files with progress delay where the caseworker is at least in part responsible for the whole period of delay**

	Number of cases that experienced progress delays	Number where all delay attributable to caseworker	Percentage of those where all delay attributable to caseworker
All (Unweighted)	143	91	64%
All (Weighted)	151	99	66%

The table above demonstrates that in 66% of cases that experience progress delay, the whole of that delay across the lifetime of the case can be attributed to either the caseworker alone, or the caseworker in conjunction with other parties.

**Table 11b: Percentage of files with progress delay where the caseworker is solely responsible for the whole period of delay**

	Number of cases that experienced progress delays	Number where all delay attributable solely to caseworker	Percentage of those where all delay attributable solely to caseworker
All (Unweighted)	143	85	59%
All (Weighted)	151	94	62%

This table shows that in 62% of cases that experienced progress delay, every period of that delay on the file was attributable solely to the caseworker.

## **2 Active case management by the Law Society**

To avoid unnecessary delay to the consumer it is important that complaints are actively managed through to a conclusion. Previous audits have identified issues around case management but did not quantify this in terms of areas where problems were causing delay or impact upon resolution of the complaint. For this audit we identified specific areas within the complaints handling process where we considered that any improvements would assist in progressing cases and ultimately benefit the consumer. These are outlined below:

### **Controlling referral to third parties**

It is sometimes necessary for Law Society caseworkers to refer complaints to third parties. The complaint can be referred to a Local Conciliation Officer (LCO) who can meet with the consumer face-to-face to clarify the complaint. The LCO returns the file to the Law Society when they have completed their action. Currently the target period for return of the file is 6 weeks although LCOs can request an extension to this. There was no evidence on the files to suggest any extensions were requested.

Of the 513 files audited, 9 cases were referred to the LCO. Referrals were with LCOs for an average of 19 weeks. The shortest period of time was almost 4 weeks with the longest period being 37 weeks on one case.

It is clear from this evidence that the average length of time files are with LCOs exceeds the current target. In addition to this it was unclear from the evidence on the files that the period spent with the LCO is monitored by the Law Society. The use of LCOs should be encouraged, but to avoid delays in the completion of LCO activity, it is suggested that the Law Society ensure that the period a file is with the LCO is robustly monitored and action taken where the timescale is likely to slip.

Files can also be issued to Negligence Panellists, who can offer advice to consumers regarding whether there is merit in pursuing a negligence claim against their solicitor. For Negligence Panellists we considered whether the referrals were appropriate. There were 19 referrals to negligence panellists. It was found that only one referral was inappropriate.

Following workload capacity issues the Law Society outsourced some complaints to contracted law firms. Once outsourced, the firms are expected to manage a complaint through to resolution to agreed timescales. There are specific criteria used to determine if a complaint is suitable for outsourcing.

Of the 513 case files audited, 57 were referred to outsource firms. The time limit for an outsource firm to resolve the complaint is 12 weeks. The average length of time a case was with the outsource firm was 16 weeks. The shortest period of time was 2 weeks with the longest being 49 weeks.

Whilst it is sensible to set a time limit for outsourcing firms to manage the resolution of complaints, it is a concern that the average length of time the files are there exceeds the target. We could find no evidence of the Law Society actively monitoring the files while they were with the outsource firm. A more robust approach to managing outsourced firms is required in order to ensure that files are returned on time.

### **Obtaining responses from solicitors**

During the handling of a consumer’s complaint, the caseworker requires a response from the solicitor against whom the complaint is being made. The caseworker can issue a formal letter to the solicitor asking for specific comments on complaint allegations. In these cases the caseworker will clearly identify the date a response is required by - this is generally two weeks from the date of the formal letter but an extension can be offered if this is requested.

The Law Society has certain powers it can exercise if it appears that the solicitor is causing the process to be delayed. In this area we looked specifically at those cases where the solicitor had not responded within a given timeframe and considered whether the powers available should have been used.

Formal responses from the solicitor were requested in 177 cases. There was evidence from the audit that in 85 (48%) of these cases the solicitor failed to reply within the set timescale. Of these, 55 (31%) then failed to meet an extension date. Despite these failures to reply, caseworkers only used Law Society powers to enforce a response in 10 (18%) of these cases.

This is a concern as the evidence identified that nearly a third of solicitors failed to reply to formal letters within the timescales set, even when given an extension. It is unclear from the evidence why the Law Society is not using its regulatory powers more frequently in these circumstances. The end result is that the consumer suffers a delay that might be reduced if the powers available had been used appropriately and in a timely fashion. The table below shows a breakdown of the findings.

**Table 12: Delays in response by the solicitor**

	<b>Number</b>	<b>Percentage</b>
<b>Formal letters issued</b>	<b>177</b>	<b>100%</b>
<b>Responses not within original timescale</b>	<b>85</b>	<b>48%</b>
<b>Responses not within extension</b>	<b>55</b>	<b>31%</b> <b>(of those that did not respond within the timescale)</b>
<b>Formal powers used where responses not in extended timescale</b>	<b>10</b>	<b>18%</b>

## **Period of time to refer cases for adjudication**

A caseworker can refer a service complaint to adjudication when it has not been possible to conciliate the matter and they consider that a solicitor has provided inadequate professional service. In conduct cases the complaint can also be referred to adjudication if there is evidence of misconduct.

In order for an adjudication decision to be made the caseworker must produce a formal report. A draft of this is issued to the consumer and solicitor for their comments before a final report is sent to the adjudicator to make a final decision. From meetings with Law Society staff during the previous audit we established that it can be expected to take up to 6 to 8 weeks to produce the adjudication report.

There were 23 files on which a formal report was produced by the caseworker. The average length of the report-writing period was 20 weeks. The shortest time was a week with the longest period of time being 70 weeks. There was evidence on files of both consumers and solicitors requesting sight of the report and caseworkers not meeting those requests.

The time taken for the adjudicator to make a decision was less of an issue. The target period is 6 weeks and we found evidence that on average decisions took 5 weeks to make with the longest period of time being 12 weeks.

It is clear that there is a problem with the time taken to write formal reports for adjudication. Similar issues had been identified in previous audits. It is suggested that a firm timescale is set by the Law Society for report completion and this is monitored. This will complement the timescale set for the making of the adjudication decision.

We also looked at the application of policy and procedures during the adjudication process and the evidence demonstrated that this was an area that currently presented few issues.

## **Utilisation and completion of forms**

There are a number of forms that caseworkers use as they manage the complaint through to resolution. Where use of the form is applicable, its completion is mandatory. These include case management plans and closure forms, as well as proformas where an ex-gratia payment has been made. Generally the completion of forms was poor.

**Table 13: Completion of Casework Management Plans**

	<b>Number</b>	<b>Percentage</b>
<b>Files Reviewed</b>	<b>474</b>	<b>100%</b>
<b>Forms Not Fully Completed</b>	<b>392</b>	<b>83%</b>
<b>Forms Fully Completed</b>	<b>82</b>	<b>17%</b>

Case management plans should be used to note down all the issues and as a tool to progress the case. Of the 474 files where case management plans were appropriate, 83% contained plans that were not fully completed by caseworkers. 110 files had more than one case management plan, in these circumstances all plans had to be fully completed in order to count as a positive.

Where an ex-gratia payment is made, there are forms to be completed to reflect both details of the grounds for payment and that it has been approved. The evidence showed that 70 ex-gratia payments were made. Of these, 24 (34%) did not have a completed form to support the payment. The result of this is that there is no record of the reasoning or justification for the payment and no record of it being approved. This makes it more difficult for the Law Society to be confident that caseworkers are applying the policy consistently.

**Table 14: Completion of Closure Forms**

	<b>Number</b>	<b>Percentage</b>
<b>Closure Forms reviewed</b>	<b>450</b>	<b>100%</b>
<b>Closure Forms Not Fully Completed</b>	<b>165</b>	<b>37%</b>
<b>Closure Forms Fully Completed</b>	<b>285</b>	<b>63%</b>

We also considered closure forms. These are used to record the reason for complaint resolution and also to confirm completion of a number of administrative activities prior to closure. Used properly this would then serve as a check on closure of the case. We reviewed 450 files on which it was appropriate to have a closure form. We found that in 37% of cases caseworkers did not fully complete the form.

This means that in over a third of the cases reviewed, caseworkers had not recorded that all the considerations had been undertaken prior to closure of a file. As this is the only place to record such information it gives rise to a concern that final checks on closure are not as effective as they should be. This leads to a lack of confidence that all the appropriate policies have been properly considered for these files.

The evidence gathered reflected inconsistent and poor use of the forms. If it is the case that the forms are not being fully completed, then their value as a case management tool to support and help caseworkers manage a complaint is significantly reduced. It therefore seems appropriate for the Law Society to consider streamlining forms so that they only ask questions that serve to progress the complaint or enable the recording of pertinent information. It is suggested that managers ensure that caseworkers complete the forms accurately and that these reflect the considerations that have been taken into account.

## **General composition of the file**

Evidence was gathered regarding how well organised the files were and we specifically looked at whether the file was orderly, whether the documents were filed in a chronological order and whether documents were legible. In 85% of cases, files met the standards.

We also considered whether notes of telephone conversations were suitably recorded and the evidence showed that these were clear, legible and complete in 88% of cases. Where telephone notes were illegible, it was difficult to assess whether issues were being dealt with appropriately.

The Law Society suggests that “best practice” should be that records of telephone calls are typed. Ensuring legibility and clarity allows any subsequent caseworker or reviewer to easily understand what has been agreed. It is also important that the consumer understands fully what has been explained to them in telephone discussions, particularly in telephone conciliations where complaints are resolved. This is an area that may be looked at further in future audits.

## **Case Worker Advice (CWA) sessions – taking advice and acting upon it promptly**

Caseworkers can request advice from consultant caseworkers. These are more experienced staff or experts in particular areas. Out of 513 files, 84 were referred for advice. However, it was found that in 19% of cases where advice was provided it was not followed.

We recognise that it is not mandatory to act on the advice from a consultant caseworker but it was unclear from the evidence on the files why the advice had not been followed. We found that 26 files had examples of more than one set of advice. In some of these cases the same consultant caseworker gave the same advice a second time. Of cases where advice had been given 80% showed no evidence of monitoring to ensure that the advice given was acted upon promptly by Law Society staff.

### **3 Quality of complaints handling by the Law Society**

When examining quality, we focussed the investigation on how well the Law Society handled consumer complaints throughout the end-to-end process. Specifically we concentrated on the caseworkers' appropriate application of policies, procedures and guidelines. Prior to the audit we examined policy documents and supported this with face-to-face meetings with Law Society managers and staff in order to further clarify issues. We focussed specifically on those areas where consumers would benefit as a result of improvements being made.

As part of the drive to continue to improve quality in complaints handling, the Law Society itself undertakes caseworker file reviews. Consultant Caseworkers examine a sample of files and check the caseworker's technical ability across the application of a range of policies and procedures during the end-to-end process for complaints handling. In order to examine quality against specific measures we included a selection of criteria that the Law Society applies within its own caseworker file reviews as well as areas within its own Consumer Service Standards.

The areas selected were measurable and could be clearly evidenced from the case files. Results gathered against each area are detailed below.

#### **Identification of issues to the consumer and solicitor**

Following allocation of a case file the caseworker should make contact with both the consumer and solicitor (where this is appropriate) as part of progressing that complaint. The caseworker should have identified the specific issues from the letter of complaint and accurately reflected them to the consumer and solicitor. This initial stage of ensuring the heads of complaint are correctly identified by the caseworker is critical to ensure that the consumer and solicitor have the opportunity to challenge any discrepancies as well as ensuring that everything has been addressed. This ensures that the case is more likely to proceed on the right track towards resolution.

The evidence from 513 casefiles examined showed that in the first contact with the consumer, caseworkers correctly identified the issues in 84% of cases.

In 241 casefiles caseworkers made substantive contact with the solicitor but the matter did not proceed to formal letter. Of these, the caseworker correctly identified the issues in 96% of the cases.

In 177 cases the caseworker issued a formal letter to the solicitor (this letter sets out the issues that need to be addressed and which require a substantive response from the solicitor within a specified timescale), in 98% of these

cases they identified issues correctly. The table below demonstrates the results.

**Table 15: Identification of Issues**

	No. of files reviewed	Percentage
1st contact with consumer	513	84%
Substantive contact with solicitor	241	96%
Formal contact with solicitor	177	98%

### **Correct assessment of cases at the outset**

It is important that cases are thoroughly and correctly assessed at the outset in order to reduce potential delays in progressing the complaint. In order to extract figures in this area we looked at those cases that experienced allocation delays and once allocated to a caseworker were closed relatively quickly, we have assumed 28 calendar days for this purpose.

Out of 513 case files 231 experienced at least one initial allocation delay. Of these, 53 (22%) were closed within 4 weeks once allocated. If these cases had been subject to a more thorough assessment at the designation stage it could have resulted in earlier closure and the consumer's expectations being managed more effectively. An example of where a positive initiative has been implemented to address this is in the Conduct Team. Consultant caseworkers undertake an initial assessment of the case and make a determination as to whether it can be closed quickly and the likely outcome. Any cases that are suitable for quick closure are sent to the closure summary team for action.

### **Appropriate application of policy guidelines and procedures**

Throughout the complaints handling process the Law Society caseworkers are required to make decisions in accordance with relevant Law Society policy guidelines. This part of our investigation focussed on specific areas that were governed by such guidelines and the evidence obtained demonstrates whether caseworkers applied these appropriately and consistently.

The audit work did not assess whether the policies themselves were in fact appropriate, but comments on whether they are being applied correctly. This is something that may be audited in the future.

### **Excluded Matters and matters outside Law Society's jurisdiction**

Once allocated, these types of cases can be closed on the basis that the Law Society is unable to deal with them. Examples of excluded matters include complaints made outside of time limits and complaints where there is ongoing court action. In this area we examined whether caseworkers had followed the correct closure procedures according to the guidelines.

Of the 513 case files audited, 62 were either excluded or outside of the Law Society's jurisdiction. Of these 58 (93%) were handled appropriately by caseworkers according to policy guidelines. These results demonstrate that this is an area handled satisfactorily by Law Society caseworkers.

#### Risk Management Group referrals

The Fraud Intelligence Unit (FIU) within the Law Society gathers information on complaints against solicitors. The policy guidelines in this area state that if a firm of solicitors has more than 5 open complaints then a referral should be made to the Risk Management Group (RMG) for them to consider whether the firm or individual needs investigating. A factor that we took into account is the ratio of fee earners in relation to the number of open matters. If the firm has a large number of fee earners then the number of open matters needs to be greater than 5 to indicate a referral required to RMG. This was taken into account when determining whether a case should or should not have been referred.

We found that in 94% of case files caseworkers made appropriate decisions in this area. This includes both those cases that had been referred and those that had not. The reasoning behind the small percentage of those decisions made outside of the policy guidelines was not evident on the case files. We also examined 26 files that did not contain any information at all about the firm of solicitors so it was therefore not possible for us to make a determination on the appropriateness of the decision. We have therefore not included these 26 files in the results.

It was not evident on the files that information was sent back to caseworkers in a structured way to reflect the action taken by the RMG team. This is an area that may form the basis of future investigation as the link between the work of RMG and that of caseworkers investigating individual complaints needs to form a feedback loop. This would ensure that any relevant information is taken into account at all stages of dealing with the complaint.

#### Conciliation and Reasonable Offer Made

There is guidance available to assist Law Society caseworkers to conciliate matters between consumers and solicitors. If the caseworker is of the view that the solicitor has made a reasonable offer but the consumer will not accept it they can close the case on the basis of reasonable offer made (ROM) and there are Law Society guidelines to support this. For both types of cases we made a judgement on whether the action taken was in line with the Law Society's own policy guidelines.

The evidence showed that 149 case files were conciliated or closed due to the ROM policy and in 94% of these cases, caseworkers followed policy guidelines. This shows that caseworkers are on the whole consistently applying the guidelines.

One of the areas we examined within this process was whether the caseworker shared the Indicative Award Guidance (this sets out the likely awards that might be paid using records of previous cases to inform compensation levels) and the ROM procedure with the consumer and solicitor. It is important that both the consumer and solicitor are made aware of this at the appropriate time in order to be fully informed of the levels of compensation which the Law Society deem acceptable taking into consideration the specifics of the consumer's complaint. We did not see consistent evidence on the case files that demonstrated this and this is another area we may want to investigate at a later stage.

### Temporary Closures

Law Society caseworkers can close cases on a temporary basis in specific circumstances. Reasons for temporarily closing a case include, for example, those referred back to the solicitor to deal with the complaint first under Rule 15, ongoing litigation, ongoing court proceedings, ongoing administration of the estate in probate cases. The onus is on the consumer to refer back to the Law Society within 6 months of the matter ending to ask for their case to be re-opened where appropriate.

Of the 513 cases audited 85 were temporarily closed. Of these, 81 (95%) were closed in line with current policy guidelines. We did however see cases where it was clear that consumers were confused as to the closure status of the file and this resulted in them expecting the Law Society to re-open the file without being specifically asked to by them.

### Application of the policy relating to Ex-gratia considerations

The Law Society can compensate consumers who have experienced delay, inconvenience or distress as a result of failings in its own service to them. This is separate to any compensation that might be awarded in relation to their complaint against a solicitor's firm.

The policy suggests amounts to award that relate to the length of delay and/or level of inconvenience and distress experienced. Caseworkers can apply some discretion within these bandwidths and they take into account whether the consumer has been kept informed throughout any delay or has had to chase the Law Society for an update. The policy also requires any proposed amounts to be approved before issue of the payment.

Of the 513 case files audited, 432 cases (84%) had ex-gratia considerations made that were in line with policy guidelines. In the baseline audit this figure was 75%. Statistical tests show that there is evidence, at the 95% confidence level, that the proportion has significantly increased. The 16% that were not in line with policy consisted of cases where the amounts awarded did not reflect the amounts suggested in the guidance for that period of delay and also those cases where no payment had been made and should have been.

**Table 16: Ex Gratia Considerations**

	Number of case files audited	Number of case files in line with policy	Percentage of case files in line with policy
<b>Total cases</b>	<b>513</b>	<b>432</b>	<b>84%</b>
<b>Over 6 months cases</b>	<b>124</b>	<b>70</b>	<b>56%</b>
<b>Over 9 months cases</b>	<b>82</b>	<b>42</b>	<b>52%</b>
<b>Over 12 months cases</b>	<b>56</b>	<b>25</b>	<b>44%</b>
<b>Over 18 months cases</b>	<b>27</b>	<b>9</b>	<b>32%</b>

The table above shows the results against the age profile of the cases and identifies those that were made in line with policy guidelines. The results demonstrate that for cases over 6 months old Law Society caseworkers are only making the right decisions in 56% of cases. It is clear to see from the figures in the table that caseworkers operate more consistently and in line with the policy on newer cases where there is less likely to be the need to make an ex-gratia payment. The over 12 and 18 months old cases show particularly poor results. The impact on the consumer here is that they are experiencing delay, inconvenience or distress and not being adequately compensated for that.

### **Content of closure letters**

The Law Society consumer service standards in this area state that the content of the letter sent out to the consumer on closure must:

- be appropriate;
- explain all the issues; and
- clearly set out the reasons for conclusions.

This is important for the consumer so they can clearly see that all their issues have been addressed and if the Law Society has not been able to deal with a specific issue there are reasons for this. In addition to this it helps the consumer decide if they are satisfied with the resolution of their complaint or if they want to refer it to the Legal Services Ombudsman. The closure letter also acts as a check for the caseworker to ensure they have addressed all the original heads of complaint.

In order to count as a positive result in this area all 3 criteria had to have been addressed. Of the case files audited the evidence showed that in 96% of the cases the closure letter content met with the policy guidelines. This demonstrates that caseworkers are in most cases producing closure letters that are appropriate and logically presented.

## **Assessment of issues on closure**

The policy guidelines in this area state that on closure the caseworker should have addressed all the consumer's issues. The results show those cases where the Law Society has done all it can to resolve the issues. The evidence shows that in 95% of cases the caseworker addressed all issues on closure of the file. What this tells us is, that as far as the Law Society's remit goes, the caseworker dealt with the complaint and on closure of the case resolved the issues as far as they were able to.

## 4 Law Society Consumer Standards

From January 2005 the Law Society introduced its internal guidelines on consumer standards which staff are to follow. These are designed to ensure the consumer has sufficient contact with the caseworker and is regularly updated regarding the progress of their complaint. The consumer standards we have evaluated are as follows:

- Consumer complaint should be acknowledged within 5 working days.
- A substantive response should be sent within 20 days of acknowledgement.
- The opening letter should inform the consumer of the internal complaints procedure and advises them that the complaint may be copied to the solicitor
- The closure letter should inform the consumer of the reasons for closure, explain all the issues and the content must be appropriate.
- Periods of annual leave greater than 5 days should be notified to the consumer in advance.
- Consumer should be contacted every month.

In 63% of cases the acknowledgement of the consumer's complaint was not sent within the 5 working days timeframe, the average number of days taken to acknowledge the consumers complaint was approximately 9 working days based on the sample of files audited.

The first substantive contact with the consumer should be made within 20 days of acknowledgement; the audit findings show that in 51% of the cases this did not happen.

Information in the opening letter to the consumer should advise them of a number of things, these include the Law Society internal complaint procedure and that their complaint may be copied to the solicitor about whom the complaint has been lodged. In 93% of the post January 05 cases the consumer was not informed of either pieces of information. The consumer was not informed of the Law Society internal complaints procedure in 69% of letters and was not informed that their complaint may be copied to the solicitor in 90% of letters. Informing the consumer that their complaint might be copied to the solicitor about whom the complaint has been lodged is important as the consumer may wish for the complaint to be kept confidential.

For files closed post January 05 we found 96% where the closing letter to the consumer had advised them of the reasons for conclusions, identified all the issues and the content of the letter was appropriate.

Informing consumers of periods of annual leave was difficult to measure as it was not always evident on the file that there had been a period of annual leave. It was possible to measure this standard in 137 cases. Of these, consumers were informed in advance of periods of annual leave greater than 5 days in 105 (77%) of cases.

From 1<sup>st</sup> January 2005 the consumer should be contacted every month in every case. In only 54% of cases that we examined, the caseworker contacted the consumer every month.

## **5 Other Issues**

During the investigation the audit team also identified a number of other issues in the case files. These are best summarised in the following way:

- Temporary closure process – although temporary closures were deemed to be appropriate in 95% of cases where the process was invoked, in every case we saw where the temporarily closed file subsequently reopened, it was also renumbered. This is in line with the Law Society's policy on temporary closures. The policy has, however, implications in terms of reporting timeliness, as single complaint matters may not be resolved for two or even three incarnations of files, each of which will count towards the timeliness target as a quicker closure than combined time taken to resolve the matter. Almost 8% of all cases were reopened following an appropriate temporary closure, and were therefore re-numbered.
- Lay Panel Referrals – in 5 cases it was evident that cases had been reviewed as part of the age profile project. The files reviewed were all over 13 months old, and two were over 18 months old. We would have expected to see a greater use of the lay panel, as it was part of the Law Society's initiative to focus on closing older cases. Indeed, it was our belief that all cases aged over 18 months (of which we audited 31) would have been looked at by the lay panel.

## **6 Conclusions**

The findings from the audit covered a range of areas detailed below.

### **1 Delays in Law Society complaint handling**

A key concern was the issue of delays both in allocation of cases to caseworkers, and in active progression of the case towards resolution. For the purposes of this audit, delay meant any period of inactivity on a file lasting at least 30 calendar days.

By comparing the results from the baseline audit with our new data, we found that there has not been a statistically significant change in the proportion of casefiles that experience delay, and also that there has not been a statistically significant reduction in the delay experienced on an average case.

Looking at each type of delay, the data suggests that almost half of the casefiles had a delay in allocation, and the average length of the delay experienced was just over 3 months. Delays in case progression were seen on fewer cases, with only 29% showing such issues. However, where progress delay occurred, the average length of the delay was just over 5 and a half months.

Also with regard to progress delays, we found that in almost 8 out of 10 cases that experienced progress issues the reason for the delay could not be established from the casefile.

While any of the parties involved could be responsible for progress delay, either solely or in conjunction with another party, we found that predominantly it was the caseworker to which the delay could be attributed.

### **2 Active Case Management by the Law Society**

In terms of actively managing the case file we found evidence of satisfactory performance in some areas and also identified other areas that would benefit from further improvements.

The evidence gathered showed that Law Society caseworkers are appropriately following the Law Society policies relating to referrals to negligence panellists, LCOs and outsourcing firms. Referrals to LCOs and outsourced firms however, showed little or no monitoring of cases once they had been referred. A more robust active case management practice is needed on these cases.

We found that the general composition of the files was good and caseworkers' recording of telephone calls was complete and appropriate in a high proportion of cases. It must be stressed however that some of the files we saw contained telephone notes that were illegible and it was therefore not possible to understand the content. Even where numbers are few in this area the impact is quite significant and it would be beneficial to have records of telephone calls typed. This would enable others who need to consider the file, for example, the Legal Services Ombudsman to be able to do this from the information available on the file.

We saw evidence of further improvements needing to be made in the area of obtaining responses from solicitors. The evidence suggests some reluctance on the part of caseworkers to use formal powers to gain responses from solicitors. The case is allowed to experience delay without any formal intervention. This goes against policy guidelines. A more robust approach in this area would have a positive impact for the consumer.

The timescales around production of the adjudication report remains an area for concern. There is no evidence of adherence to any guidelines in this area and consumer's can wait up to 17 weeks on average for the report to be produced. If the time taken to complete the report was reduced it would have a positive impact for the consumer.

Utilisation and completion of forms was another area that would benefit from improvement. There are certain mandatory forms that should be used to add value in terms of identifying pertinent details of the complaint and progressing the matter. Case management plans were not fully completed in a high proportion of cases and if they are not being used in line with their intended purpose the Law Society should consider rationalising them.

Caseworker advice sessions are used by caseworkers to gain technical advice on files but the evidence shows that in 19% of cases the advice is not followed. If these sessions are perceived to add value and are instrumental in caseworkers being able to make progress on the complaint then the Law Society should consider whether acting on the advice should be mandatory.

### **3 Quality of complaints handling by the Law Society**

When examining quality, this concentrated on the Law Society's handling of the complaint from beginning to end. It also considered the appropriate application of policies, procedures and guidelines by caseworkers. The audit investigated whether Law Society staff had implemented or applied these correctly, it does not assess whether these policies are in themselves appropriate. This is something that may be audited in the future.

The audit findings demonstrate that Law Society caseworkers perform effectively in the areas noted below:

- Identification of issues to the solicitor;
- Application of policies and procedures with regard to;
  - Excluded matters and matters outside of the Law Society's jurisdiction
  - RMG referrals
  - Conciliation and ROM
  - Temporary closures
- Content of closure letters; and
- Assessment of issues on closure.

The evidence shows that there remains room for improvement in the quality of complaints handling in the following areas:

#### Correct assessment of cases at the outset

We recognise the changes that have been made to the designations process but the evidence suggests that there is more that could be done to improve performance in this area. An example of where assessment at the outset has improved within CAI where the initial examination of the case by an experienced Consultant Caseworker is driving quicker closure of the cases.

#### Application of the policy relating to ex-gratia payments

The evidence shows that across all the cases audited, when caseworkers are making ex-gratia considerations they apply the policy correctly in 84% of cases. In the baseline audit this figure was 75%. Statistical tests show that there is evidence at the 95% confidence level that the proportion has significantly increased. The baseline audit did not however consider the age profile of cases in order to identify those areas most in need of improvement.

The audit shows the results against the age profile of the cases. The evidence demonstrates that in those cases of 6 months and over, caseworkers are only applying the policy guidelines correctly in 56% of cases. We can see that there are issues particularly with the 13-18 and over 18 months old cases. This is an area where improvements still need to be made with a focus on the older cases that are more likely to warrant an ex-gratia payment.

## **4 Law Society Consumer Standards**

The Law Society has set its own consumer standards and the audit findings show that this is an area where caseworkers are not performing to the required level. Improvements need to be made in each of the categories in order for a positive impact to be felt by the consumer.

## **5 Other Issues**

Analysing the process of re-opening and re-numbering following temporary closures, we found that although in the majority of cases (95% of files with temporary closures) the policy was being applied correctly, we had concerns over the fact that a single complaint matter may not be resolved for a number of incarnations of the file, and the falsely positive effect this has on the Law Society's timeliness reports.

Use of the Lay panel was very limited. We expected to see a more widespread application, since one of the Law Society's initiatives was the use of lay members in bringing older cases to resolution.

## Law Society Initiatives

It is recognised that the Law Society has shown in its Complaints Handling Plan (version 5.4 dated 21 April 2005) a number of initiatives it intends to deliver over this year. Further details of these initiatives can be found in the Plan itself. Specific initiatives that relate to the audit findings are:

- identifying delay patterns in current processes and the potential for eradication;
- improving the timeliness of response from solicitors and adherence to standards;
- improvements to resource planning and forecasting;
- Customer service standards and guidelines;
- operation of the new ex-gratia policy; and
- improving quality assurance process for consistency of complaints handling and decision making.

We are also aware of an informal initiative introduced in May 2005 by CAI that involves using a consultant caseworker to provide an initial assessment of the case in an attempt to aid speedy resolution. As part of this process, cases that have been identified as being able to be closed quickly are passed to a summary closure team to action.

We will be looking at these initiatives to consider their effectiveness in future audits

## Glossary of Terms

Audit Plan	This is a plan issued by the OLSCC Investigations Team to the Law Society outlining audit processes and areas to be investigated during the audit
CAU	Customer Assistance Unit within the Law Society
CRO	Client Relations Office within the Law Society
CAI	Conduct and Investigation within the Law Society
Compensation Fund	The object of the Law Society's compensation fund is to enable the Society to make grants to those persons who have suffered loss by reason of the dishonesty of a solicitor, or his employee, or to an applicant who has suffered hardship as a consequence of a failure by a solicitor to account for money.
Complaint	This is an expression of dissatisfaction about the service provided by a firm of solicitors or the conduct of an individual solicitor where the Law Society takes action to conciliate and settle or investigate.
Counting Rules	The counting rules are those agreed with the Law Society as set out in the Legal Services Ombudsman's definitions document and determine whether correspondence received from the consumer is categorised as either an enquiry or a complaint.
Conciliation	This is a process leading to the resolution of the complaint by agreement between the consumer and solicitor without the need for a formal decision by the Law Society

Conduct complaints	A complaint that relates to the actions/behaviour of an individual solicitor rather than the service received by the firm of solicitors as a whole.
Delay (allocation)	These are delays that occur between designation of the enquiry or complaint and subsequent allocation to a Law Society caseworker
Delay (progress)	These are delays that occur during the lifetime of the case
Designations	Correspondence from a consumer will either be categorised as an enquiry or a complaint.
Enquiry	Matters where the Law Society provides information, clarification or explanations of jurisdictions
Excluded matters	These are certain categories of matters that the Law Society do not normally investigate.
Ex-gratia payments	These are used to compensate the consumer for loss, inconvenience or distress caused by failings in the Law Society service.
File Reviews	This is a case file examination that takes place by a more experienced caseworker as part of the Law Society's quality assurance process.
Inadequate Professional Service	IPS is defined by the Solicitors Act 1974 as service which has "not been of the quality which it is reasonable to expect" of the solicitor.
Law Society Council	The Council exercises regulatory powers under the Solicitors Act 1974, the Courts and Legal Services Act 1990 and the Access to Justice Act 1999. The Council's role includes determining the Society's position on major policy issues; making all the practice rules and recommending the

	level of the practising certificate fee to the Master of the Rolls.
Local Conciliation Officer	These are solicitors who have received complaints handling training to enable them to investigate complaints on behalf of the Law Society.
Panel Solicitor	A panel solicitor may be instructed to deal with complaints on behalf of the Law Society where the matter is sensitive, for example where an adjudication Panel or Council member is personally involved.
Rule 15	Rule 15 Solicitors' Practices Rules 1990 requires solicitors to operate a complaints handling procedure and provide certain client care information. The Law Society will check that the consumer has exhausted this procedure before it deals with the complaint.
Service Complaint	This is a complaint made by the consumer relating to the service they have received from the firm of solicitors.
Shadow Period	This is the period from January to March 2004 during which the OLSCC developed and tested processes and procedures in order to commence the formal programme of audits from 1st April.
Temporary Closures	A case file can be temporarily closed when matters outside of the Law Society's control, as outlined in its procedures, are ongoing which may have a bearing on the outcome of the complaint. In these cases, once the matter is resolved, the onus is on the consumer to resume contact with the Law Society.

## Technical Appendix 1: Sampling for the Annual Casefile Audit

### Introduction

The purpose of the annual casefile audit was to see how the activity of the Law Society's complaint handling bodies has changed since the baseline was completed in the Ex Gratia Audit (May 2005). As such, the cases selected for the Annual Casefile Audit all closed in 2005, after the introduction by the Law Society of measures to improve their performance.

There were a number of considerations that needed to be taken into account when constructing the sample. These were:

- How many cases should be sampled?
- Are there any groups of interest within the population that will require special consideration in the sample?
- Is the sample representative of the population from which it is drawn?

*How many cases should be sampled?*

The consideration here is to the balance between accuracy and feasibility. The larger the sample, the more accurate the inferences will be, however, with only finite resources available to the audit team, not all cases can be inspected.

The accuracy with which inferences can be made from a sample can be described using the *confidence level* and the *margin of error*. Ordinarily, we will choose a confidence level for the inferences we wish to make, calculate the sample statistic, and then evaluate the margin of error produced. The two measures are related, however, such that for a particular sample statistic, we can increase the amount of confidence we have in the inference, but only at the expense of the margin of error.

Incorporating the time it would take to audit the files and the number of staff available to carry out the work, it was decided that a sample of 513 cases would be inspected. This number allows us to make inferences with a 95% confidence interval, and at most 4% margin of error. These 513 cases would need to be selected in accordance with the points made below.

*Are there any groups of interest within the population that will require special consideration in the sample?*

In this audit we wish to build in the capacity to look at the difference between the performance in the Consumer Complaints Service (CCS, looking mainly at service complaints) and Conduct Assessment and Investigation (CAI, looking mainly at conduct complaints) branches of the Law Society. If we were to select all 513 cases to be purely representative, we would only have a very small group of conduct cases to investigate. Instead, two samples were essentially taken – one from those cases with a service complaint, and one from those with a conduct complaint. This would allow us to make inferences about both groups with reasonable accuracy.

As the population of service cases is much larger than the population of conduct cases, there is not an equal split of the 513 cases across these two groups. Also, since the mathematics of selecting a sample size are not linear, it is not a straightforward proportional split of the 513 either. As the size of the population increases,

the proportion needed to gain a valid sample decreases. Taking this into account, the 513 cases were split as 280 service cases and 233 conduct cases.

*Is the sample representative of the population from which it is drawn?*

For the Annual Casefile Audit, the population refers to all cases closed in June and July of 2005. We want to sample cases in such a way that the intrinsic characteristics of the population appear in our sample with the same frequency. This ensures that the sample is as 'similar' to the population as possible. Of particular importance here is the age of the closed cases, particularly as older cases tend to experience longer delays.

At the start of case selection, a complete list of files closed in the appropriate months was received from the Law Society. This list contained information regarding the type of case, be it service or conduct, and the age of the case. Sample *strata* were defined using these characteristics. For example, one stratum related to service cases closed in July 2005 that were between 4 and 6 months old at closure.

Once it has been determined how the whole population breaks down into these strata, those proportions were used to select sample cases.

*Inferences about the Populations*

Once the sample has been obtained, and the case files examined, the sample statistics calculated can be used to make inferences about the whole population. This is done by way of a *Confidence Interval*. These take into account the variability present because we have only looked at a sample of data, rather than the whole population. Suppose we found that 40% of our sample had a particular characteristic 'X'. Our inference would be in the form:

*With 95% confidence, we can conclude that between 35% and 45% of the whole population have characteristic 'X'.*

In this example, the difference between the central estimate of 40% and both the confidence limits is 5%. This is the margin of error discussed above. In certain circumstances, however, it is not appropriate to create the confidence intervals. Where the analysis shows that only a small number of cases exhibit a particular characteristic, inferences based on that small number are subject to a higher relative degree of random variation, which negatively affects their accuracy.

*Combining the samples*

Essentially we will be dealing with two samples, defined by whether the cases concerned are service or conduct complaints. Each sample could be used in isolation to make inferences about that population. However, for the purposes of this audit we want to make inferences about the combined populations – about all closed cases in this instance.

As mentioned above, the sizes of the two samples are not proportionally equal to their respective populations, so that there is a valid sample of each. This means that a weighting system is needed when making inferences about the whole caseload.

If we simply put the two samples together, the conduct cases will be over-represented, and the service cases under-represented. In order to balance, we have the following results:

- Each conduct case is 'worth' 0.5904 in the combined sample;
- Each service case is 'worth' 1.3408 in the combined sample.

The following example shows how this is implemented:

***It was found that of the 223 conduct cases, 72 were deemed to be in line with the policy (32%). Also, 138 of the 280 service cases (49%) were deemed to be in line with the policy. Adding together these two results would suggest that 210 of the 513 cases audited were in line with the policy (41%). While this statement is true, it is also misleading.***

***Using the information and the weights to form an inference on ALL cases closed, we find that the 72 conduct cases are 'worth' around 43, and the 138 service cases are 'worth' around 185. Our inference is then that we expect 44% (43 + 185 = 228 out of 513) of the whole caseload to be handled in line with the policy.***

*Comparisons between the Baseline Audits and the Annual Casefile Audit*

Data collected earlier in the year about casefiles closed in 2004 allowed us to create a baseline of how the Law Society was performing prior to implementing initiatives designed to improve its complaint handling capability. Where the Annual Casefile Audit has collected the same information as the baseline, we will be able to directly compare how performance has changed over the year. Using statistical hypothesis tests, we will be able to conclude whether differences are actual, significant changes, or whether they are attributable to the random effects of sampling.

## Technical Appendix 2: Details of the Sample Construction

As previously noted, the file sample for the Annual Casefile Audit is essentially two separate samples, one for service cases and one for conduct cases. The two file samples were constructed using the following factors:

- Month of closure of casefile (June or July 2005);
- Age Profile of case at closure (6-point age group);
- Nature of Complaint (service or conduct).

The last of these factors was used to define the two samples. The other two factors were used as the basis for creating representative samples. Any combination of the levels of the three factors defined a single sampling stratum (example – service cases closed in July within 3 to 6 months of opening is a single stratum). The tables below show how each of the factors is represented in the samples:

*Table A1: Month of closure of service casefiles:*

<b>Month of Closure</b>	<b>No. Cases Closed in sample period</b>	<b>Proportion</b>	<b>No. Cases Realised in Sample</b>	<b>Proportion</b>
June 2005	1191	52%	145	52%
July 2005	1115	48%	135	48%
Total for sample period	2306	100%	280	100%

*Table A2: Month of closure of conduct casefiles:*

<b>Month of Closure</b>	<b>No. Cases Closed in sample period</b>	<b>Proportion</b>	<b>No. Cases Realised in Sample</b>	<b>Proportion</b>
June 2005	431	51%	119	51%
July 2005	414	49%	114	49%
Total for sample period	845	100%	233	100%

*Table A3: Age Profile of service casefiles at closure:*

<b>Age of Case at Closure</b>	<b>No. Cases Closed in sample period</b>	<b>Proportion</b>	<b>No. Cases Realised in Sample</b>	<b>Proportion</b>
0-3 Months	1215	53%	148	53%
3-6 Months	566	25%	68	24%
6-9 Months	193	8%	23	8%
9-12 Months	114	5%	14	5%
12-18 Months	125	5%	15	5%
18+ Months	93	4%	12	4%
Total for sample period	2306	100%	280	100%

*Table A4: Age Profile of conduct casefiles at closure:*

<b>Age of Case at Closure</b>	<b>No. Cases Closed in sample period</b>	<b>Proportion</b>	<b>No. Cases Realised in Sample</b>	<b>Proportion</b>
0-3 Months	437	52%	120	52%
3-6 Months	174	21%	48	21%
6-9 Months	74	9%	20	9%
9-12 Months	41	5%	11	5%
12-18 Months	53	6%	15	6%
18+ Months	66	8%	19	8%
Total for sample period	845	100%	233	100%

Tables showing the breakdown by all 12 sampling strata can be found at the end of this appendix.

Table A5: Sampling Strata for service casefiles:

Month of Closure	Age Profile	Number of Cases Closed in	Proportional Split of Cases Closed	Cases Sampled	Proportional Split of Cases Sampled
June 2005	0-3	641	27.8%	78	27.9%
	3-6	276	12.0%	34	12.1%
	6-9	110	4.8%	13	4.6%
	9-12	51	2.2%	6	2.1%
	12-18	59	2.6%	7	2.5%
	18+	54	2.3%	7	2.5%
July 2005	0-3	574	24.9%	70	25.0%
	3-6	290	12.6%	34	12.1%
	6-9	83	3.6%	10	3.6%
	9-12	63	2.7%	8	2.9%
	12-18	66	2.9%	8	2.9%
	18+	39	1.7%	5	1.8%
Totals for sample period		2306	100.0%	280	100.0%

Table A6: Sampling Strata for conduct casefiles

Month of Closure	Age Profile	Number of Cases Closed in sample period	Proportional Split of Cases Closed	Cases Sampled	Proportional Split of Cases Sampled
June 2005	0-3	214	25.3%	59	25.3%
	3-6	87	10.3%	24	10.3%
	6-9	44	5.2%	12	5.2%
	9-12	23	2.7%	6	2.6%
	12-18	28	3.3%	8	3.4%
	18+	35	4.1%	10	4.3%
July 2005	0-3	223	26.4%	61	26.2%
	3-6	87	10.3%	24	10.3%
	6-9	30	3.6%	8	3.4%
	9-12	18	2.1%	5	2.1%
	12-18	25	3.0%	7	3.0%
	18+	31	3.7%	9	3.9%
Totals for sample period		845	100.0%	233	100.0%