

A photograph of a large, three-dimensional sign mounted on a white wall. The sign reads "Office of the Legal Services" on the top line and "Complaints Commissioner" on the bottom line. The text is in a dark, serif font. To the left of the sign, a portion of a green plant is visible. The background of the photograph is a light-colored wall.

Office of the Legal Services Complaints Commissioner

Chapter 1

Being an Effective Regulator



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Being an Effective Regulator – the work of the Office of the Legal Services Complaints Commissioner

Background

The Commissioner was appointed by Government in February 2004 as an independent regulator of the complaints handling arm of the Law Society of England and Wales. In January 2006 the Law Society formally split into three distinct bodies, each one with its own Chief Executive and in the case of LCS and SRA, their own Board. The three bodies are:

The Legal Complaints Service (LCS), formerly called the Consumer Complaints Service until January 2007, which deals with complaints by consumers who are complaining about the service received from their solicitor;

The Solicitors Regulation Authority (SRA) which regulates solicitors and deals with complaints where misconduct of a solicitor is alleged. There are links between LCS and SRA in relation to complaints handling, for example they share the same adjudicators; and

The Law Society which represents solicitors, to protect and promote their work.

Although these bodies operate as different entities, the governance arrangements remain the same and the Law Society's Council still approves the budget for all three, and is responsible to the Commissioner to deliver an Improvement Plan.



Although the Commissioner's powers relate to the Law Society as the professional body, LCS and SRA have been delegated the responsibility for submitting an Improvement Plan to her.

Throughout this Annual Report those handling complaints are referred to as LCS and SRA for ease of reference. There is an overlap between the two organisations with regards to complaints handling and they submit a joint Plan, however, the overwhelming majority of the Improvement Plan relates to LCS and the remainder relates to SRA. This report needs to be read in this context.

The Commissioner's role is to encourage and influence improvement in LCS and SRA's handling of complaints about solicitors to ensure that it is effective and efficient. She does this by requesting an Improvement Plan and setting targets that LCS and SRA work to. The Commissioner believes that consumers and the profession should have access to services under a complaints system that follow the seven key principles below:

- Clarity of purpose;
- Accessibility;
- Flexibility;
- Openness and transparency;
- Proportionality;
- Efficiency; and
- Quality outcomes⁶

⁶ Guide to principles of good complaint handling – ©The British and Irish Ombudsman Association 2007

The Commissioner's powers as a Regulator

In order to regulate effectively, the Commissioner has been given powers under Section 52(2) of the Access to Justice Act 1999 (the Act). These powers relate to the Law Society as the recognised Professional Body and are:

- To require LCS and SRA to provide information or make reports about the handling of complaints about their members;
- To investigate the handling of complaints by LCS and SRA;
- To make recommendations to LCS and SRA;
- To set targets for LCS and SRA; and
- To require LCS and SRA to submit an Improvement Plan for the handling of complaints.

Penalty

If the Commissioner requires a plan and the Law Society fails to submit a plan, that she considers adequate for securing that complaints are handled effectively and efficiently, then she can impose a penalty. Separately, if the Law Society fails to handle complaints in accordance with a plan then she can also levy a penalty.

The Act sets out what the Commissioner must do before deciding on a penalty. The maximum penalty has been set by the Lord Chancellor and should be the lower of £1 million and 1% of the annual income of the Law Society.

Principles of good regulation

The Commissioner is guided in her work as a regulator by the recommendations of the Better Regulation Executive and applies the five 'Principles of Good Regulation'⁷:

- Proportionality;
- Accountability;
- Consistency;
- Transparency; and
- Targeting.

The Commissioner's work as a regulator

In order to be an effective regulator of LCS and SRA complaints handling, the Commissioner and her Office have:

- developed a thorough understanding of the arrangements for handling complaints operated by LCS and SRA, to see where improvements can be made; to determine what, if any, recommendations to make; and to set targets for performance that when achieved will help ensure that complaints are handled more effectively and efficiently;
- built the capabilities to assess whether the Commissioner requires an Improvement Plan; what the Plan should contain; what aspects of the handling of complaints it should address; and what targets it should aim to meet;
- assessed the completeness of the Improvement Plans produced by LCS and SRA and determined the viability of the intended approach, towards securing effective and efficient complaints handling;
- monitored the progress of LCS and SRA in meeting agreed targets, implementing the agreed Improvement Plans and assessing whether they have acted in accordance with their Improvement Plans;
- engaged with a wide spectrum of stakeholders to understand what they expect from her Office, and LCS and SRA complaints handling and have reported back to them on the work the Commissioner has undertaken and the impact this is having on improving the handling of complaints by LCS and SRA; and
- determined and levied an appropriate penalty when the Law Society failed to produce an adequate Improvement Plan.

OLSCC skills and experience

In order to perform her role as a regulator the Commissioner has assembled a high calibre team of staff in her Office. Staff are divided into three distinct branches and led by a Director of Operations. The three branches are:

⁷ The Cabinet Office interactive guidance on consultation, available at www.cabinetoffice.gov.uk



Professional Body Performance Branch

This team works to advise the Commissioner on LCS and SRA progress towards improving their complaints handling. As well as monitoring and assessing performance against the LCS and SRA Improvement Plan, the team works closely with the LCS and SRA to understand the underlying factors, which affect the service provided. This team also engages with stakeholders in order to inform them of the Commissioner's work with LCS and SRA, to ensure that complaints handling develops more in line with consumer needs and expectations. As the legal reform programme

continues, it works to ensure the consumer's perspective is taken into account, and that the experience of the Commissioner as a regulator of the Law Society appropriately informs development of the new legal bodies.

Corporate Services Branch

This team is responsible for the internal corporate performance and financial management of the office and for delivering services such as communications, human resources, training, budget, accommodation and information technology.

Research and Investigations Branch

This team collects detailed information and provides independent assurance about the accuracy and level of service supplied by LCS and SRA. This information is used by the Commissioner to inform her recommendations to LCS and SRA and future target setting. The team also researches and benchmarks other organisations comparable in some form to LCS and SRA.

During the period 1 April 2006 to 31 March 2007 the Research and Investigations team undertook 8 audits in which they reviewed over 4,300 Law Society LCS and SRA files. The audits undertaken were:

- Coal Health Compensation Scheme Audit
- Renumbering of Files Audit
- Annual Case File Audit
- Indicative Target Audit
- Adjudication Audit
- Redress Conduct Audit
- Negligence Audit
- The Law Society Target Performance Audit

Further details of the audits and the findings are in Chapter 3. Copies of these audit reports including findings and recommendations are available at www.olsc.gov.uk