

The Society's Conduct Complaints Process (after 1 October 2008)

Conduct Complaints

From 1 October 2008, the new Scottish Legal Complaints Commission acts as a gateway for all complaints. It also decides whether complaints are about a service provided by a solicitor or a solicitor's conduct. Conduct issues relate to a solicitor's behaviour and can include breaches of professional rules.

All conduct complaints are referred to the Society for investigation, whether they relate to a period before or after 1 October. After 1 October, the Society has the new power to make a finding of unsatisfactory conduct on issues which fall short of professional misconduct.

Service Complaints

The Commission deals with all service complaints relating to business instructed after 1 October 2008. Service issues include poor communication, avoidable delay, failing to follow instructions and failing to advise about rising fees/outlays. The Commission can be contacted on 0131 528 5111 or see the leaflet *The Society's Complaints Process (where work started before 1 October 2008)* for information about making service complaints that relate to business instructed before 1 October.

The Society's Complaints Process

Help From the Society. The Society offers advice and information to those involved in a complaint on 0845 113 0018 or 0131 476 8168. Those with hearing or speech problems can use the textphone on 0131 476 8359.

Complaints Investigation. After 1 October 2008, all conduct complaints must be investigated once they have been brought to the Society's attention. One of the Society's Complaints Investigators will conduct a written investigation, which includes gathering information from both parties and others. The investigator will give the solicitor fair notice of the allegations.

The Report Stage. Next, a report will be drawn up by the investigator and copied to the complainer and the solicitor for comment. It will contain a summary of the facts found, an opinion on the complaint and any recommendations. The report is then considered by the Society's Professional Conduct Committee.

The Committee Stage. The committee, which has an equal membership of solicitors and non-solicitors, decides the outcome of the complaint. Committee members consider the report but do not have to follow its recommendations.

Sanctions. In cases of professional misconduct, the Society can refer the case to the Scottish Solicitors' Discipline Tribunal, which has the power to impose a censure or fine as well as restrict, suspend or strike off a solicitor. The sanctions for unsatisfactory professional conduct include censure, a fine of up to £2,000, payment of compensation up to £5,000 and an order to undergo training.

Third Party Complaint

Complaints can be made where the complainer is not the client but he or she has been affected directly by the solicitor's action. For instance, the complainer might be the other party in a divorce action. The Society will look into the complaint but the process is slightly different. The reason for this is that correspondence and discussions between clients and their solicitor are confidential and cannot be given to a third party complainer, although they will be considered by the Society.

Special Kinds of Complaints

Endowment Complaints. The Society handles complaints about investment business provided by a Scottish solicitor who was authorised to do so by the Society at the relevant time.

Immigration and Asylum Complaints. The Society handles immigration complaints against Scottish solicitors provided the business was first instructed before 1 October 2008. The Office of the Immigration Services Commissioner regulates immigration advisers and deals directly with complaints against them. It also examines how the Society regulates solicitors where they deal with issues of immigration and asylum.

Appeals and Reviews

Both parties have a right of appeal to the Scottish Solicitors' Discipline Tribunal against a finding of unsatisfactory professional conduct by the Society.

One of the new Commission's functions is to review the Society's handling of a complaint, which was previously carried out by the Scottish Legal Services Ombudsman. The Commission can recommend that all or part of the complaint is reconsidered and also order the Society to pay compensation.

Further Information

For more information, contact the Society's Regulation Liaison Team on 0845 113 0018 or 0131 476 8168.

For information about the Society's data protection policies contact the Data Protection Officer on the above numbers.

More details about the Commission are available at 0131 528 5111.