



## The Society's Complaints Process (where work started before 1 October 2008)

### Service Complaints at the Society

For a transitional period until 2010, the Society will continue to deal with service complaints relating to business instructed before 1 October 2008. Service complaints must be made to the new Scottish Legal Complaints Commission in the first instance. Cases that relate to business instructed before 1 October will be referred back to the Society for investigation. The Commission can be contacted on 0131 528 5111.

Service issues include poor communication, avoidable delay, failing to follow instructions and failing to advise about rising fees/outlays. See the leaflet *The Society's Conduct Complaints Against Solicitors (After 1 October 2008)* for information about service complaints that relate to business instructed after 1 October.

### Conduct Complaints at the Society

The Society handles all complaints about a Scottish solicitor's conduct, whether it relates to business instructed before or after 1 October 2008. Conduct complaints must be made in the first instance to the Commission, which will then refer them to the Society.

Conduct issues relate to a solicitor's behaviour and can include breaches of professional rules. See the leaflet *The Society's Conduct Complaints Against Solicitors (After 1 October 2008)* for information about conduct complaints that relate to events after 1 October.

### The Society's Complaints Process

**Client Relations Partner.** Often the quickest and most effective way of resolving a problem before the start of a formal investigation is through a firm's Client Relations Partner, who is there to deal with complaints.

**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.** If the complaint cannot be resolved at the initial stage, one of the Society's Complaints Investigators will conduct a written investigation, which includes gathering information from both parties and others. The investigator will agree the issues of the complaint with the complainer and give the solicitor fair notice of the allegations.

**The Report Stage.** Next, a report will be drawn up by a Reporter, who is not a member of the Society's staff. The report is copied to the complainer and the solicitor. It contains a summary of events, an opinion on the complaint and any recommendations. If a complaint is about a service provided and the complainer and solicitor agree with the opinion, it is resolved and the file closed. If either or both disagree with the opinion, the report and comments will go to one of the Society's Client Relations Committees.

The outcome cannot be agreed between the complainer and solicitor if the complaint is about professional misconduct. These cases must be considered by the Society's Professional Conduct Committee, unless the Client Relations Committee agrees a decision for no further action.

**The Committee Stage.** The Society's committees, which have an equal membership of solicitors and non-solicitors, decide the outcome of complaints. They consider the written report but do not have to follow its recommendations.

## Sanctions

**Service Complaints.** Sanctions include the correction of mistakes, a full or partial refund or waiver of fees and payment of compensation up to £5,000.

**Conduct Complaints.** In serious 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.

## Third Party Complaints

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 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

Solicitors have a right of appeal to the Scottish Solicitors' Discipline Tribunal against a sanction imposed by the Society for inadequate professional service.

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