



Law Society
of Scotland

70
Years
1949-2019

Roberton Report: Fit for the Future: Response of the Regulatory Committee of the Law Society of Scotland

10 June 2019



Introduction

This response is on behalf of the Regulatory Committee of the Law Society of Scotland. The Regulatory Committee was created as part of the Legal Services (Scotland) Act 2010. It is a committee of the Council of the Law Society, but it is independent of the Council and exercises Council's regulatory functions as set out in Section 3F of the Solicitors (Scotland) Act 1980. Its core purpose is to ensure these functions are exercised independently, properly, and with a view to achieving public confidence. Like all the Regulatory Sub-committees which operate under its supervision, the committee is made up of 50% solicitors and 50% non-solicitors. The chair is a non-solicitor and is elected by the members of the committee.

The key elements of its remit are:

- To ensure that standards for the profession are set by way of making relevant and appropriate rules and guidance, to be applied in a uniform and consistent way and regularly reviewed
- To ensure on an ongoing basis that the internal processes, policies and procedures adopted by Regulatory Sub-committees are effective, appropriate and proportionate in order to ensure the making of consistent regulatory decisions for the protection of the public and the profession and to ensure that the sub-committees comply with Section 3B(2)((a) and(b)) of the 1980 Act
- Where any rules policy, process or procedural changes are not in the authority of the Regulatory Committee to change, make recommendations for any changes to the appropriate governance group in the Society (e.g. Council, Board, Finance Committee, Chief Executive) or in the case of rules to a general meeting of members and the Lord President.

As indicated, the Regulatory Committee is accountable to, yet is independent of, the Law Society Council. This separate and detailed response to the Robertson Report (the Report) is prime evidence of that independence in action.

The Regulatory Committee has been in existence for under a decade, and we are not aware of any instance of it failing to carry out its duties, or related regulatory failure. In its short life there have been numerous instances where the committee has taken a different view from its sub committees and/or the Law Society Council. This has led to debate, revision and adjustment of positions within the Society (including our own), as all perspectives are considered. What all stakeholders share is a strong commitment to serving the interests of consumers, the profession, and society. We firmly believe that the Regulatory Committee works well. We make suggestions for further improvement throughout this document, but we have not seen the case for wholesale disruptive change as set out in the Report.

The Regulatory Committee's remit is limited to solicitors, their firms, and certain other legal practitioners. That said, many of the concerns and suggestions expressed below are also likely to apply to other parts of the legal profession.

Comments

Recommendation 1; Creation of a new, single regulator

The primary recommendation (1) of the report is; *'There should be a single independent regulator for all providers of legal services in Scotland, independent of those whom it regulates and of Government, responsible for the whole system of regulation including entry, standards, monitoring, complaints and redress, which covers individuals, entities and activities. That independent regulator should be a body accountable to the Scottish Parliament and subject to scrutiny by Audit Scotland.'*

We do not agree with the recommendation. It is generally agreed that regulation should be introduced only in circumstances where there is clear evidence of market failure (Competition and Markets Authority; CMA 2018). We do not believe in this case there is evidence of market failure (CMA 2018), nor that the case has been made for the wholesale regulatory change proposed. We do however agree with the Report when it says '[t]here is little evidence of significant wrongdoing in the current model.' (Robertson 2018, p30) Where regulation is required, it should be proportionate and targeted.

We are, concerned at the risks inherent in the principal recommendation. Our view is based on the following:

a. The need to uphold the rule of law

While this is an admittedly elastic concept, a feature of many definitions is the need for a legal profession that is independent from state control, direct or indirect (Bingham 2010). In our view this includes how the profession is regulated.

Through their professional ethics and values, and performance of their duties, lawyers serve the public interest in upholding the rule of law. Lawyers do and must be free to advise and represent their clients without fear or favour in all matters and against all adversaries. This includes holding government to account and representing individuals in legal processes involving state institutions.

This constitutional role gives an extra dimension to the question of how lawyers are regulated that is not present for other professions. The United Nations has repeatedly recognised the importance of an independent legal profession in promoting and protecting human rights (United Nations 1990; Office of the

High Commissioner of Human Rights 1994). In her 2011 report, the Special Rapporteur on the Independence of Judges and Lawyers sought 'to underscore the importance of an organized legal profession, including an independent and self-regulated association to safeguard the professional interests of lawyers, while protecting and strengthening ethics and the integrity and independence of the legal profession' (Knaul 2011). The European Court of Justice has also recognised that the public interest in an independent legal profession requires protection, despite the restrictive effects on competition that may result (European Parliament 2006).

This has even been acknowledged in the current context by the CMA. In its consultation response, while it asserted that regulation should be independent of both government and professions, it also recognised that the legal profession needs to be treated differently from others to ensure that the rule of law is upheld (CMA 2018).

The risk is that by creating a 'quasi-quango' regulator (created by government but funded by those it controls), a conflict of interest may arise that inhibits the independent exercise of the lawyer's function. By contrast, locating the regulatory function within an independent professional body serves the public interest, and reinforces to lawyers the significance of upholding the rule of law. And, '[t]o fulfil this role effectively, professional bodies must be protected from influence, particularly that of the executive arm of government' (Boon 2017, p11).

The Report declares that Scotland should judge itself by international standards of regulation of legal services. Scotland's hybrid jurisdiction shares most with the common law legal family. Looking at these jurisdictions, for instance Canada, Australia and the USA, the overwhelming picture is one of self- or co-regulation (Boon 2017). While regulation to increase competition is a feature of many modern legal professions, this has not automatically meant the loss of the regulatory role of the professional body.

It is also recognised that there are different models for the regulation of legal services across the world, and we recommend a comparative evaluation before deciding which if any may suit the needs of Scotland. No example, however, mirrors what is proposed by the Report, as its author acknowledges: '[n]one have so far taken the transformational approach that I propose' (Robertson 2018, p31).

b. The risk of losing goodwill and expertise

To the extent that the current model has aspects of self-regulation¹, there are recognised advantages. Commentators have identified perceived benefits as including:

- A relationship of mutual trust between regulator and regulated;
- Expertise and insight, allowing for more efficient innovation;
- Swifter amendment of regulatory standards;
- Lower monitoring and enforcement costs;
- Lower costs to the public purse.

(Ogus 1995; Morgan & Yeung 2007)

The Law Society currently has access to many legal experts through its voluntary network within committees. Without these, any new regulator could find it difficult to regulate in an effective way. It also takes many years for the development of knowledge and expertise, which the Law Society possesses, to be at a level necessary for effective regulation. Law Society staff are highly and continually trained, many have been with the Society for many years and have developed a thorough understanding of the needs of both the consumer and the profession.

The risk is that the accumulated goodwill and trust, and the resulting insights and efficiencies, may be lost as the profession is asked to start from a blank page with an unknown quantity. The new external regulator will not necessarily share the same culture as those it regulates, which can result in higher costs and a demoralising lack of recognition of professional motivation. An instructive example of the adverse results of imposing external regulation may be seen from the experience of the General Medical Council (Williams *et al* 2014)

c. The cost

The Report makes assumptions as to the costs of creating a new regulator without demonstratable evidence to suggest that they will either be the same or less than the current system. What is certain is that the profession (and thus ultimately the client) will be asked to fund any new regulator, including unquantified start up costs. While there may be a degree of offsetting as some compliance costs would be reallocated from the Law Society to a new regulator, the creation of an entirely new body inevitably will incur fixed costs.

¹ As explained below, it is more accurate to speak of 'co-regulation' of legal services in Scotland.

There is likely to be inefficient duplication of premises, staff, governance and so on. Ultimately, all these costs will be passed on to the users of legal services. A regulatory impact assessment that included cost projections would therefore be welcome.

d. Mixed regulation is already in place

We accept that pure self-regulation is neither possible nor desirable. Nor does it exist at the moment. The reality is that at present there is a mix of self-regulation, external regulation, and co-regulation.

Co-regulation may be defined as delegated responsibility from another regulatory body (ASA 2019). This combines the efficiency and other advantages of self-regulation set out above, with the accountability and public confidence of a statutory backstop. Models of mixed regulation of legal services exist in various jurisdictions, for instance New South Wales and Queensland in Australia (Bartlett & Haller, 2017).

Examples where the Law Society is an effective co-regulator include money laundering and quality assurance of civil legal aid providers. The latter, in place since 2003, involves regular peer review and reaccreditation of all registered firms. Professionals with insight are able to examine a sample of a firm's files and assess the quality of the work against published criteria. Actions can range from simple confirmation and recertification, to withdrawal of the compliance certificate from that firm. The work is overseen by a regulatory sub-committee, which itself reports to the Regulatory Committee. In relation to the former, the Law Society as the approved supervisor of Scottish solicitors holds a dual role regarding the application of anti-money laundering legislation and regulation. Firstly, the provision of expert guidance on anti-money laundering best practice and other financial crime-related issues, through inspections, our professional practice team, guidance which can be found on the Society's website and through our dedicated AML audit function. Secondly, as the supervisory authority with responsibilities in the capacity as the professional body for Scottish solicitors. In February 2019 the Law Society wrote to the Minister for Community Safety highlighting the importance and effectiveness of the Society's work as an AML supervisor. This work in AML was recently highlighted as an example of best practice by HM Treasury in their AML Supervisory Report for 2017/18.

The European Commission (2018) has set out principles of conception and implementation of both self- and co-regulation. These include ensuring wide participation, being open and transparent, and acting in good faith. The current model of regulation of legal services reflects these principles, for example by the substantial lay presence on all regulatory committees, the due process and accountability of regulatory decisions, and the universal cultural commitment to act to inspire public confidence in Scotland's legal services.

Legal services in Scotland are also externally regulated by a range of bodies to a substantial degree. These include the Lord President's Office, the Financial Conduct Authority, the Competition and Markets Authority, the Scottish Legal Aid Board and the Scottish Legal Complaints Commission.

It must therefore be recognised that compared with many areas of business activity, and despite a lack of evidence of consumer detriment or other market failure, solicitors are heavily regulated. They perform their role with significant controls on entry thresholds, professional practice, and disciplinary standards. Legal education serves not only to pass on technical knowledge and maintain entry standards, but to invoke a professional ethos and to socialise lawyers into being active members and servants of civic society (Boon, 2017). Solicitors must be prepared to 'open the books' at any time, engage in continued professional development (CPD), and renew their licence to practice annually. Members of the profession pay for a free-to-complain second tier alternative dispute resolution (ADR) scheme for service complaints, and are subject to conduct rules that can lead to removal from the roll and thus total loss of livelihood.

Recommendations 2 – 9; Establishment and accountability

These recommendations are instrumental to the enactment of Recommendation 1, and our response must be read in the context of our disagreement with it.

To the extent that these recommendations will reflect better regulation principles, we agree with them. We agree that any new regulatory framework should be flexible and permissible, promoting regulation that is proportionate and proactive, capable of adaption to changes in the way legal services are delivered and enhancing consumer protections. We agree that the composition of any regulatory board should reflect the interests of the regulated, the consumer, and the wider public interest. We agree that recruitment to any regulatory board should be transparent and follow due process. As noted below, we have begun a discussion on whether the Regulatory Committee recommends to the Law Society's Council that the Council adopts a version of the public appointment process when appointing members to the Regulatory Committee.

We are sympathetic to the view of the Law Society Council, that there may be a need to review the current definition of 'legal services' in the Legal Services (Scotland) Act 2010.

Recommendations 10 – 15; Role and functions of the independent regulator

Again, these recommendations are instrumental to the enactment of Recommendation 1, and our response must be read in the context of our disagreement with it. We agree that working in partnership with consumer bodies and the profession are important for any effective regulator. A consumer, or at least 'non-professional' voice in the shape of lay members, is embedded on the Law Society Council, Regulatory

Committee, and the regulatory (and many other) sub-committees of the Law Society. As noted above, the statutory Regulatory Committee has a non-lawyer chair and 50% lay membership. At its most recent meeting, the Regulatory Committee agreed to look into what would be the best way to ensure that the voice of the consumer is heard within its structure. In addition, the Regulatory Committee is looking forward to engaging with Consumer Scotland, once this new body is established, and sees this as an opportunity to discuss regulatory reform and any respective impact this may have on the consumer.

We agree that a future-focussed regulator must have cross-jurisdictional authority as far as possible. Any line of accountability must be mindful of the importance of the rule of law and the related doctrine of the separation of powers.

Recommendations 16 – 20; Entry, standards and monitoring

To the extent that these recommendations reflect high standards of quality assurance, we agree with them. This would be enhanced by the reservation of the term 'lawyer'. Along with a redefinition of the term 'legal services', this would help close regulatory gaps and should operate to protect the consumer.

Recommendations 21 – 27; Entity regulation

We agree with the recommendations, subject to any regulatory impact assessment. As noted above, any new regulatory framework should reflect principles of good regulation and be flexible and proportionate. As the AML supervisor for Scottish solicitors, the Law Society regulates firms at entity level to the extent of complying with money laundering legislation. In addition, the Law Society regulates firms at entity level to the extent of compliance with its Accounts Rules.

Enhancing the role of AML supervisor, The Regulatory Committee recently oversaw the creation of a new AML sub-committee. This, together with stringent processes and policy, will ensure the Law Society's AML supervisory duties are executed effectively.

Recommendations 28-30; Regulation of activities

We agree with the recommendations. Regarding any proposed changes to reserved powers, we respect the important insights available from the profession, expressed via the Law Society.

Recommendation 31; Quality improvement

We agree with the recommendation, subject to any regulatory impact assessment. Data sharing to improve standards in a proportionate and targeted way is a legitimate aspiration of regulation.

Recommendations 32 – 35; Complaints

As noted in the Report, it is recognised unanimously that the current complaints system is not fit for purpose. We agree with that assessment, and further recognise there is a range of views on what best might replace the current system. We hope that one outcome of the Report will be substantial reform of the system for legal complaints. There is much to be gained: as well as improvements in service recovery and dispute resolution, an effective complaints system is a useful source of learning (London Economics 2017; SPSO 2011).

Over recent months the Law Society has been in discussion with Scottish Government officials, the Scottish Legal Complaints Commission (SLCC) and more recently the Faculty of Advocates in relation to proposals to make changes to processes centred around the eligibility part of the complaint journey. These proposals are focused on improving and streamlining that stage to reduce the bottleneck which is currently experienced and which creates frustration for the complainant and the legal professional complained against. The discussions have been positive and these are ongoing.

Below we set out some general principles of good complaint handling, and outline some examples that we hope may be useful in the current discussions.

a. An effective complaints system

There is a large degree of agreement in the literature over what makes for an effective complaints system (Graham 2012), even if expressed in slightly different ways. For instance, the Parliamentary and Health Service Ombudsman recommends:

- Getting it right
- Being customer focused
- Being open and accountable
- Acting fairly and proportionately
- Putting things right
- Seeking continuous improvement

(PHSO 2009)

The Scottish Public Services Ombudsman says a good complaints system should be:

- User-focused
- Accessible
- Simple and timely
- Thorough, proportionate and consistent
- Objective, impartial and fair

It adds that the scheme should aim to resolve complaints at the earliest opportunity, and that analysis of outcomes should be used to support service delivery and drive service quality improvements.

(SPSO 2011)

The shared characteristics have been summarised as a system having:

- Highly visible procedures
- Easy and free access
- Effective organisational protocols
- Fairness and consistency
- Responsiveness
- Organisational ownership and commitment

(George *et al* 2007)

In our own discussions, the Regulatory Committee has recognised that any complaints model should be underpinned by the following principles. It should be:

- Simple, not over bureaucratic or over 'judicialised'
- Proportionate
- Timely
- Cost effective and make best use of resources
- Fair to the profession and consumer

b. Key questions and illustrative examples

As well as agreeing on general principles, we have identified a number of key questions that the designer of any new legal complaints system should consider. These include:

Whether the single gateway should be retained?

From a design perspective this has an intuitive appeal, as it allows for clear signposting for complainants and their advisors. Messaging, signposting and brand recognition may be easier, insofar as marketing

concepts are relevant. It also allows for initial assessment and allocation to take place according to a single set of criteria. An example may be seen in the legal services commission of New South Wales, Australia (Office of the Legal Services Commissioner 2019a).

That said, we are not aware of any research that identifies the presence or absence of a single gateway as a critical factor for complainants. In England & Wales, the single complaints gateway was removed in 2010. Service user research since has not identified any issue around its absence. What seems to count for complainants is a high-quality process, even over and above timeliness (Legal Ombudsman 2014)

Under our existing system even pure conduct complaints identified by the Law Society have to be looped through the single gateway, which denies the insight of the experts and adds inefficiency to the process. It may be that a modified version of the current system would be more efficient. For instance, a single gateway for the complainant, in a system that also allows for self-notified conduct complaints to be taken forward on the initiation of the Law Society. An example of this may be seen in New South Wales, Australia (Office of the Legal Services Commissioner, 2019).

It is important that regardless of the point of contact, complainants are met with empathy by well-informed staff who either can deal with the matter or signpost appropriately. The different expectations, levels of experience and journey up to that point of both complainant and professional have to be recognised (Legal Ombudsman 2014). It is also important that for as long as there is more than one body dealing with aspects of complaints, they communicate effectively and with a sense of shared objectives.

Whether there should be a single investigation?

As the Report acknowledges, in many jurisdictions a 'consumer' or 'service' complaint is subject to a single investigation, with recognition and direction of 'conduct'² concerns as required. Conduct matters may be investigated in parallel, even by a separate body.

Technology may assist parallel investigation, for instance allowing all stakeholders to access the same case data. It would also be important to clarify in scheme rules that in conduct matters, the complainant is a witness rather than a party. A related question that may clarify the expectations of stakeholders is whether any body dealing with conduct matters should have power to award compensation or not.

² Other schemes use different terminology, for instance 'consumer' and 'disciplinary' – see Office of the Legal Services Commissioner 2019a.

Another way to ensure a single investigation is to have a single body dealing with all aspects of the matter. Ontario Law Society provides an example of this (Ontario Law Society 2019). It is the professional body and regulator for lawyers and paralegals in the province, and handles both service and conduct complaints. It attempts to deal with complaints in a timely, flexible and proportionate way, seeking informal resolution wherever possible. This includes taking an inquisitorial, improving approach to conduct matters where formal proceedings are not warranted (Ontario Law Society 2019a).

Whether the complaints system should allow appeal to the courts?

In general, the logic of an alternative dispute resolution system is that it acts to take cases away from the courts. Typically the system has in-built, internal appeals, and external oversight of an individual case is only available via judicial review – for examples, see the Legal Ombudsman and the Financial Ombudsman Service (Legal Ombudsman 2019; Financial Ombudsman Service 2019). As is well known, judicial review applies only to designated ‘public bodies’, and looks at the way a decision was arrived at, rather than its merits.

What role an ombudsman might play?

Several jurisdictions use a legal ombudsman to unify and streamline the complaints procedure (among other functions), for instance Queensland and New South Wales, Australia (Queensland Law Society 2019; Office of the Legal Services Commissioner 2019c). The ombudsman may act as the single gateway, or oversee operation of complaints by the professional body. Powers may include looking at a random sample of files in the professional body, disagreeing with its conclusions, asking the body to reconsider their decision, or even taking the case in-house. It could issue its own decisions on service cases with conduct cases dealt with by the professional body. In practice it would be anticipated that the majority of service and conduct complaints would be delegated to the professional bodies, subject to the ombudsman's scrutiny.

An ombudsman's secondary role is to use complaint and other data to improve standards in the relevant sector. A more efficient complaint system will allow resources to go from addressing service failure to encouraging service enhancement.

We recognise that a number of models are available, and each will have perceived strengths and weaknesses. We acknowledge that designing an effective complaints system is complex and should be approached systematically (Gill *et al* 2014; Gill *et al* 2016). We therefore recommend that research is carried out to inform the design of a complaints system that meets the needs of legal service users, the profession, and the wider public interest.

Recommendation 36; Tribunal

We agree that an independent, arm's length, tribunal dealing with conduct cases is a useful and common element of a system of professional regulation.

Recommendation 37; Whistleblowing

We agree with the recommendation. The Regulatory Committee has overseen the recent work of the Law Society developing confidential means of raising concerns relating to suspected money laundering.

Recommendations 38 – 40; Economy

Further research is to be welcomed in all aspects of legal services regulation. The consumerist/competition philosophy of regulation remains dominant in England & Wales, and this is reflected in the assumptions of the Competition & Markets Authority's 2016 study (CMA, 2016). It should be noted, however, that other approaches to regulation exist (Boon, 2017) and that as we note above, regulating society's legal professions may have wider implications than the simple application of competition theory may suggest. It may also be reductive to view users of legal services only through a consumerist lens. As Lord Neuberger has said in a related context, '[c]itizens are bearers of rights, they are not simply or merely consumers of services.'³ Very often it is the job of the lawyer, free from any other influence, to assist the citizen in articulating and vindicating those rights.

The Law Society has held early discussions with Scottish Enterprise with a view to undertaking a study to determine the economic benefits derived from the Scottish legal sector. Following best practice of the Scottish Government (SG 2019), we are also in favour of a Business and Regulatory Impact Assessment of the Report's 40 recommendations for change.

Enhancing the role of the Regulatory Committee

To the extent that it provides an opportunity to improve the regulation of legal services in Scotland, we welcome the Robertson Report. It has initiated reflection and debate over how we can continue to improve across the sector, including within the Law Society and the Regulatory Committee. Bearing in mind the principles of good regulation outlined above, matters under discussion include:

³ Lord Neuberger, cited in Cobb (2013, p15)

- An appointment process akin to the public appointments process, to ensure actual and perceived independence;
- The formation of a consumer reference group (or 'panel') to give valuable insight into the distinct consumer perspective;
- An information and awareness raising campaign to raise the profile of the Regulatory Committee and its public interest role, both within and outwith the profession;
- Whether the successful revalidation model of peer led quality assurance of civil legal aid has wider application in the sector;
- What if any structural changes might enhance the operational and perceived independence of the Regulatory Committee.

The Regulatory Committee would welcome the opportunity to discuss these and the other ideas contained in this response with all interested parties.

References and bibliography

- ASA. 2019. *Self-regulation and co-regulation*. [online] [Viewed 17 May 2019] Available at <https://www.asa.org.uk/about-asa-and-cap/about-regulation/self-regulation-and-co-regulation.html>
- BARTLETT, F. & HALLER, L. 2017. Australia: Legal services regulation in Australia – innovative co-regulation. In: BOON, ed. 2017. *International perspectives on the regulation of lawyers and legal services*. Oxford: Hart Publishing, pp161-183.
- BINGHAM, T. 2010. *The rule of law*. London: Penguin
- BOON, A. (ed) 2017. *International perspectives on the regulation of lawyers and legal services*. Oxford: Hart Publishing
- BUCK, T., KIRKHAM, R. & THOMPSON, B. 2011. *The ombudsman enterprise and administrative justice*. Farnham: Ashgate
- COBB, S. 2013. Legal aid reform: its impact on family law. 35 *Journal of Social Welfare and Family Law*, p3.
- COMPETITION AND MARKETS AUTHORITY. 2018. *Competition and Markets Authority's response to the Independent Review of the Regulation of Legal Services in Scotland*. [online] [Viewed 11 March 2019] Available at: <https://www2.gov.scot/Resource/0053/00535374.pdf>
- COMPETITION & MARKETS AUTHORITY. 2016. *Legal services market study – final report*. [online] [Viewed 20 March 2019] Available at: <https://assets.publishing.service.gov.uk/media/5887374d40f0b6593700001a/legal-services-market-study-final-report.pdf>
- EUROPEAN COMMISSION. 2018. *Principles for Better Self- and Co-Regulation*. [online] [Viewed 17 May 2019] Available at: <https://ec.europa.eu/digital-single-market/en/cop-principles-better-self-and-co-regulation>
- EUROPEAN PARLIAMENT. 2006. *European Parliament resolution on the European legal professions and the general interest in the functioning of legal systems*. P6_TAP6_TA (2006) 0108. [online] [Viewed 11 March 2019] Available at: <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P6-TA-2006-0108+0+DOC+XML+V0//EN>
- FINANCIAL OMBUDSMAN SERVICE. 2019 *Our rules and powers: appeals*. [online] [Viewed 19 March 2019] Available at: https://www.financial-ombudsman.org.uk/faq/businesses/answers/rules_a11.html
- GEORGE, M., GRAHAM, C. & LENNARD, L. 2007. *Complaint handling: principles and best practice*. Centre for Utility Consumer Law, University of Leicester [online] [viewed 24 January 2019] Available at: https://www2.le.ac.uk/departments/law/research/cces/documents/Complainthandling-PrinciplesandBestPractice-April2007_000.pdf
- GILL, C., WILLIAMS, J., BRENNAN, C., & HIRST, C. 2016. Designing consumer redress: a dispute system design model for consumer-to-business disputes. *Legal Studies*, Vol. 36, No. 3, pp.438-463

GILL, C., WILLIAMS, J., BRENNAN, C., & HIRST, C. 2014. *Models of alternative dispute resolution: a report for the Legal Ombudsman*. [online] [Viewed 16 May 2019] Available at: <https://www.legalombudsman.org.uk/downloads/documents/research/Models-Alternative-Dispute-Resolution-Report-141031.pdf>

GRAHAM, C. 2012. *Effective complaint handling – a discussion document*. Consumer Focus

INTERNATIONAL BAR ASSOCIATION. 2005. *Rule of law resolution*. September 2005

KNAUL, G. 2011. *Report on missions to Mozambique*. UN Doc. A/HRC/17/30/Add.2

LAW SOCIETY OF SCOTLAND. 2018. *The case for change: revisited*. Edinburgh: Law Society of Scotland. [Viewed 20 March 2019]. Available at: <https://www.lawscot.org.uk/media/359509/case-for-change-revisited-law-society-of-scotland.pdf>

LEGAL OMBUDSMAN. 2014. *Developing our service principles – getting it right*. [online] [Viewed 20 March 2019] Available at: https://www.legalombudsman.org.uk/wp-content/uploads/2016/05/Developing-Our-Service-Principles_GETTING-IT-RIGHT.pdf

LEGAL OMBUDSMAN. 2018. *Scheme rules* [online] [Viewed 20 March 2019] Available at: <https://www.legalombudsman.org.uk/downloads/documents/publications/Scheme-Rules.pdf>

LONDON ECONOMICS. 2017. *Research into the experiences and effectiveness of solicitors' first tier complaints handling processes*. [online] [Viewed 20 March 2019] Available at: <https://www.legalombudsman.org.uk/wp-content/uploads/2017/11/FINAL-First-Tier-Complaints-Report.pdf>

MORGAN, B. & YEUNG, K. 2005. 2007. *An introduction to law and regulation – text and materials*. Cambridge: Cambridge University Press

OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS. 1994. *Independence and impartiality of the judiciary, jurors and assessors and the independence of lawyers*, 1994/41

OFFICE OF THE LEGAL SERVICES COMMISSIONER. 2019. *Complaints initiated by the Legal Services Commissioner*. [online] [Viewed 20 March 2019] Available at: http://www.olsc.nsw.gov.au/Pages/lsc_complaint/olsc_initiated_complaints.aspx

OFFICE OF THE LEGAL SERVICES COMMISSIONER. 2019a. *Types of complaints*. [online] [Viewed 20 March 2019] Available at: http://www.olsc.nsw.gov.au/Pages/lsc_complaint/olsc_type_complaint.aspx

OFFICE OF THE LEGAL SERVICES COMMISSIONER. 2019b. *Welcome to the office of the legal services commissioner*. [online] [Viewed 16 May 2019] Available at: <http://www.olsc.nsw.gov.au/>

OGUS, A. 1995. *Regulation*. Oxford: Clarendon Press

ONTARIO LAW SOCIETY. 2019. [online] [Viewed 20 March 2019] Available at: <https://lso.ca/>

ONTARIO LAW SOCIETY. 2019a. *Complaints*. [online] [Viewed 19 March 2019]

Available at: <https://iso.ca/protecting-the-public/complaints>

PARLIAMENTARY & HEALTH SERVICE OMBUDSMAN. 2009. *Principles of good complaint handling*. [online] [Viewed 20 March 2019]

Available at: <https://www.ombudsman.org.uk/sites/default/files/page/0188-Principles-of-Good-Complaint-Handling-bookletweb.pdf>

QUEENSLAND LAW SOCIETY. 2019. How does someone make a complaint about a solicitor? [online] [Viewed 16 May 2019] Available at:

https://www.qls.com.au/Knowledge_centre/Ethics/Resources/Dealing_with_the_regulatory_authority/How_does_someone_make_a_complaint_about_a_solicitor

ROBERTON, E.A. 2018. *Fit for the future - report of the independent review of legal services regulation in Scotland*. [online] [Viewed 18 March 2019] Available at:

<https://www2.gov.scot/Resource/0054/00542583.pdf>

SCOTTISH GOVERNMENT. 2019. *Better regulation*. [online] [Viewed 20 March 2019] Available at:

<https://www.gov.scot/policies/supporting-business/business-regulation/>

SCOTTISH PUBLIC SERVICES OMBUDSMAN. 2011. *SPSO statement of complaints handling principles*. [online] [Viewed 20 March 2019]

Available at:

<http://www.valuingcomplaints.org.uk/sites/valuingcomplaints/files/resources/2018%20Statement%20of%20Complaints%20Handling%20Principle.pdf>

UNITED NATIONS. 1990. *Basic principles on the role of lawyers*. Adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990

VIBERT, F. 2007. *The Rise of the Unelected: Democracy and the New Separation of Powers*. Cambridge: Cambridge University Press

WILLIAMS, H. LEES, C. & BOYD, M. 2014. *The General Medical Council: Fit to Practise?* Civitas. [online] [Viewed 18 March 2019]

Available at: <http://www.civitas.org.uk/pdf/GMCFittoPractise.pdf>

For further information, please contact:

Brian Simpson
Legislative Change Executive
Law Society of Scotland
DD: 01314768184
briansimpson@lawscot.org.uk