

**Title: Report on the SLCC's Audit of Timescales in
Relation to Conduct Complaints Handling by the
Law Society of Scotland**

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1 Introduction

- 1.1 Under Section 36(5) of the Legal Profession and Legal Aid (Scotland) Act 2007 ('the Act'), the Scottish Legal Complaints Commission (SLCC) has powers to carry out audits of the records held by the relevant professional organisations relating to conduct complaints which have been remitted to them under Section 6(a) or 15(5)(a) of the Act.
- 1.2 This is a report on the findings of the SLCC's Oversight Audit of Timescales in relation to conduct complaints handling by the Law Society of Scotland ('the Law Society').
- 1.3 The fieldwork relating to this audit was undertaken in April and May 2012.
- 1.4 The SLCC would like to thank the Law Society staff for their co-operation.

2 Audit Scope and Objective

2.1 The audit focused on:

- ascertaining what policies, procedures and targets are in place in relation to timescales for dealing with complaints under the Law Society's seven-stage complaints handling process from receipt to determination.
- ascertaining whether these policies, procedures and targets are being adhered to, whether complaints are being dealt with in a timely manner and whether key stakeholders' expectations are adequately managed.
- identifying and analysing trends in relation to timescales from 01 October 2008
- determining what measures are in place to identify anomalies in terms of timescales and how effective such measures are in monitoring, remedying and ensuring that lessons are learned.
- examining timescales in relation to the exchange of complaints-related data between the Law Society and the SLCC.
- establishing what progress has been achieved in relation to the SLCC's previous recommendations in respect of establishing and documenting formal timescales for dealing with conduct complaints.

In carrying out the audit, the SLCC undertook the following steps:

- sample test 30 completed complaints which had reached the Committee stage, covering the period 01 October 2008 to date;
- examined the Regulation Department Complaints Investigators Manual (Conduct Complaints), approved by the Law Society's Client Care Sub Committee in April 2012;
- reviewed the monitoring and reporting arrangements currently in place (and those to be put in place);
- examined the Visual Files requirements specification document; and
- Interviewed key members of staff.

3 Overall Audit Conclusion

3.1 In formulating its Overall Audit Conclusion, the SLCC adopted the following rating structure:-

Level of Assurance	Explanation
None	The expected processes, procedures and controls were absent or were considered to be fundamentally inadequate. We recommend that urgent remedial steps are taken.
Limited	The processes, procedures and controls under review appeared to be unsatisfactory and would benefit from significant improvement. We strongly recommend that Management implements the recommendations contained in this report.

Reasonable	The processes, procedures and controls under review could benefit from a number of improvements. We recommend that Management implements our recommendations to achieve these improvements.
Substantial	The processes, procedures and controls under review appear to be operating as expected, or where only a few minor areas of potential improvement have been identified. We recommend that Management considers implementing any recommendations made.

- 3.2 The SLCC was satisfied that the overall level of assurance about the processes, procedures and controls relating to LSS timescales in the conduct complaint handling process was reasonable and that the audit did not identify any individual areas which would give rise to a “limited” or “no assurance” rating. In providing this level of assurance, the audit identified a number of areas where the SLCC considered that the LSS can improve and strengthen procedures and controls, and has made recommendations in relation to these.
- 3.3 The Audit identified that timescales for dealing, accurate reporting and monitoring of timescales for conduct complaints post 01 October 2008 were not yet in place, and as a result testing of timescales was limited. However the SLCC does recognise that steps have been taken and that a substantial IT project (across various departments of the Law Society) is currently underway, which aims to address these timescale issues. It is recommended that the Law Society keeps the SLCC informed about the outcome of the IT project and any new reporting facilities that the Law Society is due to implement.
- 3.4 Whilst new reporting functionalities are currently being implemented, the Law Society should consider the capability within the process to fast-track complaints e.g. Hybrids. This could reduce the amount of time taken during the complaint handling process especially where the complaint is clearly accepted, very little investigation needs to take place and where it would be in the public interest for the case to get to the SSDT as a matter of urgency.
- 3.5 The SLCC will conduct monitoring of timescales through its investigation of handling complaints, In addition to periodic audits which will be arranged by the SLCC from time-to-time. Timescales and targets will be reviewed to ensure that they accurately reflect the Law Society’s complaint handling process, which, the SLCC appreciates, may change and develop over a period of time.

4 Key Findings and Recommendations

Policies, Procedures and Targets:

- 4.1 It was identified that there were no formally approved documented timescales or targets in place for investigating complaints under Law Society’s seven-stage complaint investigation process under the 2007 Act. In addition there were no formal timescales/targets in place to effectively measure the progress of a complaint through the Law Society’s seven-stage conduct handling process. However, we note that there are now some targets set out in the Complaints Investigator Manual (Conduct Complaints) which was approved by the Client Care Sub Committee in April 2012. These targets include timescales for dealing with correspondence, telephone calls and update letters.
- 4.2 A quarterly report of ‘Regulation-Conduct Complaints’ is produced for the Board tracking progress against key indicators. A copy of the report from November 2011 to end of January 2012 indicated that the average number of days to process and conclude a complaint was 320 days. Our manual calculation identified a discrepancy (349 days) in the average number of days to process and conclude a complaint. We were informed that the average number of days is calculated automatically from Visual Files and is not manually verified prior to reporting to the Board.

- 4.3 An IT update to the Law Society's case management system, Visual Files, will enable timescales and key performance indicators to be set for both overall timescales and for each stage of the process. We were informed during the audit that there were no timeframes set to implement timescales and Key performance indicators on Visual Files.
- 4.4 The SLCC obtained a sample of 30 complaints covering the period of 01 October 2008 up to the planning phase of the Audit. The sample consisted wholly of closed cases which had reached the Closure stage. We identified those cases which exceeded the target of 320 days and split these into each individual stage of the seven stage complaint handling process.
- 4.5 Where complaints exceeded the average timescale, these were further investigated to identify at what stage(s) delays had occurred. From this we identified that the majority of delays/lengthy timescales in the process were within the Ingathering Evidence and Reporting Stages.
- 4.6 Further investigation of these stages identified the following factors created delays:
- delays responding to complainers' correspondence;
 - cases being re-allocated to another Complaints Investigator during the process;
 - re-organisation of the department;
 - dealing with backlog of work; and
 - non co-operation of the solicitors complained of leading to the issue of Section 48 Notices.
- 4.7 We found instances where parties were not kept informed when their case was being transferred from one Complaints Investigator to another, or where the Complaints Investigator was going to be absent for a period of time, e.g. annual leave. Lastly, we identified instances where there were large periods of inactivity in the complaint file, which could not be readily explained.
- 4.8 The SLCC would recommend that the Law Society keeps the SLCC updated on the IT Visual File project and notifies the SLCC of any timescales which are set.
- 4.9 The SLCC also recommends that once timescales have been set, a process is developed to monitor timescales and targets to ensure these are met. These should be periodically reviewed to ensure that they accurately reflect the complaint handling process.
- 4.10 Management should consider regularly publishing timescale targets on the website to ensure transparency. It should consider publishing a summary of the numbers, business category of complaints received and the timescales in which they were resolved.

Adherence to policies, procedures and targets and managing stakeholder expectations:

- 4.11 Testing to ascertain if policies, procedures and targets were being adhered to was limited due to targets not being set or adequately documented.
- 4.12 User expectations are harder to manage with no formal timescales.
- 4.13 Steps have been taken by the Law Society to monitor and address delays including:
- a weekly report indicating the number of reports at 'All Evidence Ingathered' and 'Report Stage,' which clearly identifies the number of reports in progress and the number of reports that have reached the reporting stage but not yet started. The effectiveness of the scheme is being closely monitored by the Complaints Investigation Management Team
 - a monthly random check of cases by the Quality Assurance Manager;
 - the use of overtime for Complaints Investigators from the beginning of March 2012 until the end of May 2012 to address backlogs.

- 4.14 The SLCC recommends that steps are taken to ensure that where anticipated delays occur e.g. the complaint is going to be re-allocated; the stakeholders' expectations are effectively managed.
- 4.15 Currently the complaint handling process for all conduct complaints is a seven-stage process. Management should consider a fast track mechanism for dealing with hybrid, serious and /or sensitive cases of misconduct. A risk based assessment would help to inform how cases might be approached.

Trends in relation to timescales from 01 October 2008:

- 4.16 This review identified limited trend analysis on timescales for conduct complaints. The Law Society advised that until recently, there were insufficient numbers on which to perform a full analysis.
- 4.17 Reports which are prepared such as the 'Average time taken summary' spread sheet and 'Profile Complaints Received' could not recognise dormancy periods more accurately accordingly, there are no reports in place that accurately reflect timescales for post- 2008 conduct complaints.

Identifying anomalies in terms of timescales:

- 4.18 There is currently no automated report in place to identify timescales anomalies for post 01 October 2008 conduct complaints. However the Law Society have advised that, once Visual Files has the appropriate IT amendments, a monthly timescales report will be created and reviewed combined with an 'Average time taken' report, which will show a breakdown of timescales within each stage of the seven-stage complaints investigation process.
- 4.19 As previously noted in 4.11 above, the Quality Assurance Manager currently performs a manual sample check of Complaint Investigators' files to identify any anomalies, and reports these back to the Head of Investigations. These are also discussed with the Complaint Investigator to ensure lessons are learned.
- 4.20 The SLCC recommends that management consider a process to ensure not only are lessons learned but also best practice in managing timescales is collated and disseminated to the wider Complaint Investigation team.
- 4.21 The SLCC also recommends that once individual timescale reports have been implemented, there are periodic management reviews to ensure trends or wider issues are quickly identified and addressed.
- 4.22 Management should review KPIs periodically to ensure that they remain realistic and accurately measure and reflect current practice.

Exchange of complaints related data between the Law Society and the SLCC:

- 4.23 Historically there has been some delay in the exchange of complaint data between the Law Society and the SLCC with regard to suspended, withdrawn, appealed and prosecuted cases. The finalised Liaison Grid has set timescales for notification/updates.
- 4.24 The SLCC recommends that the Law Society undertake a periodic review of the exchange of complaint data between both organisations, and that this is discussed as part of the on-going liaison meetings with the SLCC's Oversight Team.

SLCC's previous audit recommendations:

- 4.25 Two recommendations were made in the Conduct Complaints Audit undertaken last year:
- Key performance indicators including timescales should be formally implemented as soon as possible and thereafter regularly monitored. The results should be fed into performance appraisals and overall results reported to management.
 - Periodic exception reporting, including any age analysis, should be performed and retained to evidence cases that are out with reasonable timescales. These reports should be monitored to identify any anomalies and trends.
- 4.26 An IT Visual Files project is currently underway to address these issues. The SLCC recommends that it is kept updated on the project.
- 4.27 The SLCC also recommends that time limits and targets should be shared with the public to underpin transparency in complaints handling and to demonstrate that complaints are valued.

