

*Future Connections* —————→

*Annual Report of The Lay Observer*

2007

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2007

SOLICITORS (NORTHERN IRELAND) ORDER 1976

SOLICITORS (AMENDMENT) (NORTHERN IRELAND) ORDER 1989

Presented to the Lord Chief Justice of Northern Ireland, the Department of Finance and Personnel and the Council of the Law Society of Northern Ireland pursuant to Article 42 of the Solicitors (Northern Ireland) Order 1976 and Article 17 of the Solicitors (Amendment) (Northern Ireland) Order 1989.



## The Lay Observer for Northern Ireland

**Alasdair MacLaughlin** was appointed The Lay Observer for Northern Ireland in April 2004. He is also The Independent Assessor for complaints for the Public Prosecution Service since June 2005 and an independent assessor for the curriculum authority. He has extensive experience in the private, public and voluntary sectors. Following 15 years in industry, he was the Director NI of the Confederation of British Industry for 10 years followed by 10 years as Director General of the Ulster Farmers' Union. He has recently stepped down as Chairman of CfA Ltd, which is the custodial company for National Vocational Qualifications, standards and frameworks in Administration throughout the UK. He is a member of the Probation Board Northern Ireland, where he chairs the Corporate Services Committee, and he serves on the panel for the Industrial Tribunals. He is a trustee of Relate and of the Belfast Association for the Blind.

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His appointment is made according to Article 42(1) of the Solicitors (Northern Ireland) Order 1976. Amendments to The Lay Observer's duties are made in Article 17 of the Solicitors (Amendment) Northern Ireland Order 1989, which came into effect on 3rd October 1989.

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# *Annual Report of The Lay Observer*

# 2007

SOLICITORS (NORTHERN IRELAND) ORDER 1976

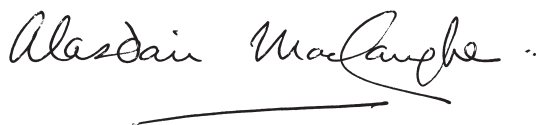
SOLICITORS (AMENDMENT) (NORTHERN IRELAND) ORDER 1989

To: The Right Honourable Sir Brian Kerr QC, The Lord Chief Justice of Northern Ireland

The Department of Finance and Personnel

The Council of the Law Society of Northern Ireland

I have the honour to present the Thirtieth Annual Report of The Lay Observer for Northern Ireland covering the Year to 31st December 2007.



Alasdair MacLaughlin  
31st May 2008



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# Section 1

## Opening Comments

1.1 This is my fourth Annual Report, and the thirtieth in the series. During the year, my appointment was reassessed by the Department of Finance and Personnel (DFP), in the light of the Bain Review of Legal Services in Northern Ireland. Whilst the Northern Ireland Assembly has received this Review with general favour, there has to be the development of appropriate legislation, which must be enacted before any new regime is put in place. Until that happens, the current arrangements will apply, and it was deemed appropriate that I should continue in the role of The Lay Observer for Northern Ireland. Accordingly, I have been appointed until the end of March 2010, or such earlier date as a new structure is put in place. It is my understanding that this appointment has the approval of the DFP Minister, Rt Hon Peter Robinson MP MLA, and of the Lord Chief Justice of Northern Ireland.

1.2 My Report deals with the activities and work of The Lay Observer for Northern Ireland during the calendar year 2007. My routine work concentrates on investigating complaints taken against the Law Society of Northern Ireland. My role is essentially to operate the third tier in the process. Complaints are brought to me by solicitors' clients in circumstances where the complainants remain dissatisfied after the Society has concluded their complaints against their solicitors. The investigation by the Society concludes the second tier in the process. The first tier in the process is the complaint being handled by the solicitor against whom the client has taken a complaint. In addition, I have the power to audit complaints which reach the second tier, but which do not reach the third tier. In essence this means that I effectively have oversight of the Complaints Handling Processes of the Law Society.

1.3 Mine is a single person part-time operation. I am contracted to provide 85 days of service per annum, and there is an escalation element for every five complaints in excess of 30 complaints per annum. In practice, there is also a 20% pro bono publico element in my work.

Even though I was appointed in 2004, the daily fee paid has not been raised since my first appointment, and I understand that this will not be altered before my current appointment ends.

1.4 I am pleased to be able to report that the Law Society, as the focus of the regulation of the solicitors' profession, has given continually higher priority to Complaints Handling and what can be learned from complaints and complainants. This is entirely appropriate. Of even greater significance than the straightforward need to limit complaints against solicitors and against the Law Society, is the more subtle and very potent opportunity that every complaint offers to improve service. The Law Society is to be commended in that it has found ways of feeding back what is learned from Complaints Handling. Service improvement then results from the Continuous Professional Development (CPD) Programme, as well as the discipline of excellent training for young solicitors, and the application of clearer and explicit terms and conditions facing a client. I am pleased to be able to report that I have observed that there has been significant progress in these matters during 2007.

1.5 One very startling example relates to complaints arising from conveyancing work by solicitors. Readers of Lay Observer Annual Reports over the past few years will have been aware that complaints arising from this work have been highlighted, and suggestions were made by me on how a reduction might take place. The Law Society and Land Registers Northern Ireland have worked closely on this over the past two or three years, and there has been a programme of improvement. This has culminated in the Law Society highlighting these problems in their publication, the Writ, and in speeches by their office bearers, and most recently since the turn of 2008 have offered a series of seminars entitled 'Nailing Conveyancing Problems: Building for the Future'. This has been astonishingly successful, in that there have been over 450 attendees in the series across the Province – this represents someone from almost

every practice in the profession in Northern Ireland. So encouraged have the Law Society been, it is my understanding, that they are planning to mount a similar approach focussing on Matrimonial Work and Probate. These are both areas which give rise to too many complaints. I commend the Law Society for this excellent initiative.

1.6 In this Report, I am also pleased to be able to commend the Office Bearers Team at the Law Society led in 2007 by Mr James Cooper and Mr Donald Eakin as successive Presidents for the priorities that have been given to CPD and to bringing into effect a new scheme of terms and condition for working with solicitors' clients. In connection with Complaints Handling I have enjoyed a continuing positive and helpful working relationship with Mr Norville Connolly, the Chairman of the Clients Complaints Committee in the Law Society. In all these activities, I am pleased to be able to report that the Society has deemed it appropriate to consult me on an on-going basis.

1.7 During the year the former Chief Executive/Secretary of the Law Society, Mr John Bailie, was appointed a Master of the High Court. He was succeeded by Mr Alan Hunter in the Autumn of 2007. I am pleased to be able to report that Mr Hunter and I were able quickly to achieve excellent working relationships and accordingly I believe that results will continue to be fruitful during my tenure, as indeed they had become with Mr Bailie.

1.8 My day-to-day contacts with the Law Society continue with Mrs Moira Neeson and her staff. These contacts work generally very effectively. They are being made significantly more efficient by the appropriate and timely use of electronic communication; the paramount consideration in this endeavour has been to ensure that complainant files at the Law Society, at least in so far as the third tier is concerned, remain complete in hard copy all communications that take place between the Society and myself. I am very grateful to Mrs Neeson

for the efforts she makes to ensure that our work is appropriately connected, whilst at the same time maintaining an appropriate professional distance between our roles.

1.9 It is very gratifying to observe the ways in which there is now effective feedback between the Complaints Handling Function and CPD. Probably the most dramatic example of this is the way in which efforts have been made, via CPD, by the Society, to develop standards of excellent working by solicitors and their staffs in linkages with Land Registers Northern Ireland. I have dealt with this subject in paragraph 1.5 above. I am pleased to be able to report that this work is beginning to show an effect on the incidence of complaints arising from conveyancing.

1.10 Also during the year 2007, Mr John Hunter, the Permanent Secretary at the Department of Finance and Personnel during my tenure, retired from the Civil Service. In wishing him well, I would want to thank him warmly for his support and help given most co-operatively throughout my appointment. During the year, he was replaced by Mr Bruce Robinson, with whom I enjoy continuing contact and support, for which I am most grateful.

1.11 On an operational basis I relate to Mrs Anne Flanagan at the Department of Finance and Personnel. I thank her, and her support staff, in particular Mr Sean Gillen, for their help, support and responsiveness. They are the people who find the resources to enable me to function, provide the means for my communication, and who smooth the way when day-to-day challenges might otherwise make my task untenable. I want to thank them for all they do for me.

1.12 I have had no direct or personal contact with the Lord Chief Justice of Northern Ireland during 2007, although he is one of the formal recipients of my Annual Reports.



1.13 I continue to have most productive and helpful relationships with my counterparts in other jurisdictions of the United Kingdom and Ireland. These contacts help to ensure the maintenance of high professional standards, as does contact with those doing similar work in different sectors. This is facilitated by my membership of the British and Irish Ombudsman Association (BIOA). This offers workshops and seminars on relevant issues throughout the year. In 2007 I attended a number of these including the Annual Conference in Warwick, and workshops in London and in Edinburgh. In addition, the BIOA published a most relevant and important document entitled *The Principles of Good Complaint Handling*. This provides standards for handling complaints, and while it is aimed at the independent tier, it is no less relevant for complaints handlers in any setting. Accordingly, I have made copies available to the relevant persons in the Law Society.

1.14 In my own work, the standards to which I aspire are recorded on my website. I confirm that I shall also be aiming to continue to achieve those standards laid down in the BIOA document referred to in the previous paragraph, and which are within the confines of the legislation and regulations under which I operate.

# Section 2

## Preamble

2.1 My theme for this my 4th Annual Report is **FUTURE CONNECTIONS**. The Annual Report is an opportunity to set the principal work of The Lay Observer within a particular context. However, this will be, quite intentionally, a shorter Report than in previous years. There are two reasons for this. Firstly, I gave extensive detail of the way in which I work in previous Reports. Secondly, the context in which the current Complaints Handling Processes now operate have not changed significantly since my last Report; accordingly it is unnecessary to cover all the same ground again, when it can be referenced in my previous Reports.

2.2 During 2007, there continued the work of oversight of Complaints Handling by the Law Society, as well as dealing with complaints against the Law Society. But there has also been strategic work in providing further comment to those involved in drafting legislation required as a result of the acceptance of the Bain Review. In addition, I have been assisting the Law Society to think ahead to ensure that the transition into a new situation will be as seamless as possible. This is why I have chosen to contextualise this Report within the continuing process of dealing with complaints, while planning for the changes due in the future.

2.3 It is in this way that my catalytic role continues. I am pleased to be able to report that:

- the valuable relationships with the new Chief Executive of the Law Society, and the office bearers continue to develop effectively. This creates the basis for strategic discussions when and as required
- the Law Society has given greater profile to the importance of reducing the causes of complaints. They have done so using their regular magazine, The Writ, but also in speeches, and most effectively in the CPD programmes

- the Law Society is working hard to introduce much clearer guidance for solicitors in implementing new terms and conditions to be applied to relationships with their clients. Amongst other achievements this will ensure that there are clearer requirements for solicitors to deal fully with complaints and effectively with complainants at the first tier. This should have the effect of reducing those complaints which need to come to the second or third tiers in the process
- The Law Society is modifying its material for guiding clients thus making the content clearer for lay people
- The methodologies of contact between the Law Society and The Lay Observer continue to be improved in order to attain maximum efficiency. In particular, I would point to the increased use of electronic communications in day-to-day contact.

2.4 I emphasise that these are continuing improvements rather than dramatic change, and as such are very welcome. I am also aware that the Law Society is working closely with the Government to ensure that the connections for the future will transfer smoothly. I am pleased to be able to participate where ever possible in preparing for effective transition. The Law Society and I are acutely aware that our current operations must continue within the confines of the current legislation, and so, neither party at present can step outside the existing parameters.

2.5 The Lay Observer operates under the **SOLICITORS (NORTHERN IRELAND) ORDER 1976** and the **SOLICITORS (AMENDMENT) (NORTHERN IRELAND) ORDER 1989**. As already stated in previous Reports, the profile of the role is not high. Nevertheless it is appropriate to ensure that potential complainants are aware of the existence of the

office, while at the same time ensuring that it is not appropriate to promote the service.

2.6 In 2007, my leaflet was made available to complainants when requested. Also, the website established at [www.layobserverni.com](http://www.layobserverni.com) and my email address [a.maclaughlin@btinternet.com](mailto:a.maclaughlin@btinternet.com) are of value to complainants and potential complainants. Many now approach me initially by email, and also refer to having consulted the website. However, I would point out that when a complaint is being advanced against the Law Society, I insist that there is documentation to support it, so that hard copy files may be kept up to date.

# *Section 3*

## *The Work of The Lay Observer in 2007*

3.1 During 2007, I investigated a total of 51 complaints from 43 complainants. This compares with 46 complaints from 44 complainants in 2006. The reasons for the disparity between the number of complaints and the number of complainants has to do with the fact that several complainants brought more than one complaint against the Law Society. I audited 80 complaints in 2007 and 90 in 2006.

3.2 In addition, for the first time in my experience, and in so far as I am aware in previous years, a conflict of interest arose. In this particular case, a solicitor in the practice being complained of had carried out a minor legal procedure for me. Accordingly, it would have been and was entirely inappropriate for me to make any decision in relation to the complaint. Accordingly, and with the approval of the authorities, I invited the Scottish Legal Services Ombudsman to acknowledge and attend to the complaint. This was accepted, and the matter was concluded in due course. I would wish to thank the Scottish Legal Services Ombudsman, Jane Irvine, and her Senior Investigator, Anne Millan, for their response so readily given, and the arrangements they made to deal with the complaint using the protocols that apply to The Lay Observer in Northern Ireland.

3.3 In 2007, the Law Society received slightly more categorised complaints, namely 295 as compared with 282 in 2006. These figures were down from the 301 categorised complaints received in 2005. The number of complainants was 206 in 2007, compared with 202 complainants in 2006. In 2005, the number of complainants was 165.

3.4 Last year I reported that the complexity of cases appeared to me to be increasing. The Law Society in 2005 chose to debate whether or not this was the case, and seemed to take the view that it was not so – possibly as an argument to avoid having to classify complaints in this way. I devised a simple format which identified those cases that were highly complex, complex and

others, but making no distinction as to whether this arose from complexity of issues, or simply of detail, or indeed from both – a distinction which the Law Society felt had greater significance than I did. Once again, I have carried out this analysis of the cases I have concluded, and this shows:

- There were 51 complaints from 43 complainants in 2007; in 2006 there were 46 from 44.
- There were 9 very complex cases requiring three days or more in each case to complete in 2007; in 2006, there were 7.
- There were 7 complex cases requiring more than one and up to two days in each case to complete in 2007; in 2006, there were 7.
- There were 35 other cases each of which took up to a day in each case to complete in 2007; in 2006 there were 30.

I therefore report a real increase, if of a relatively modest nature, in the complexity of complaints reaching me in recent years; this of course has resource implications for me as well as for the Law Society. I must also report an increase in the number of complainants who want to challenge the conclusions that I have reached. In most cases this arises because of the limitations of the legislation, which no longer appears to match public expectations. I have not quantified this as a trend but anticipate commenting on the matter again in 2008.

3.5 Many complainants take the view that solicitors get off lightly even where a complaint is upheld. I have dealt with this matter and the reasons for my conclusions in my previous Reports. I believe this view arises as a direct consequence of the limitations of the current legislation, and of the fact that the Law Society is constrained in the way in which solicitors can be held to account under the Complaints Handling Processes. It is proving more and more difficult to convince complainants of these limitations under the legislation; this is perhaps an illustration of how timely the current review is.

3.6 Mine is a part-time appointment, and for the past two years I have operated without the assistance of direct support staff. All administrative and secretarial tasks are carried out directly by me, as well as the investigatory, reporting and auditing work. I believe that I now operate on behalf of the public a low cost, efficient and effective service within the legislation, procedures and protocols.

3.7 In concluding this section, I would wish to thank the various staff in Londonderry House; they as part of their normal duties receive and look after mail and any messages delivered in person by complainants.

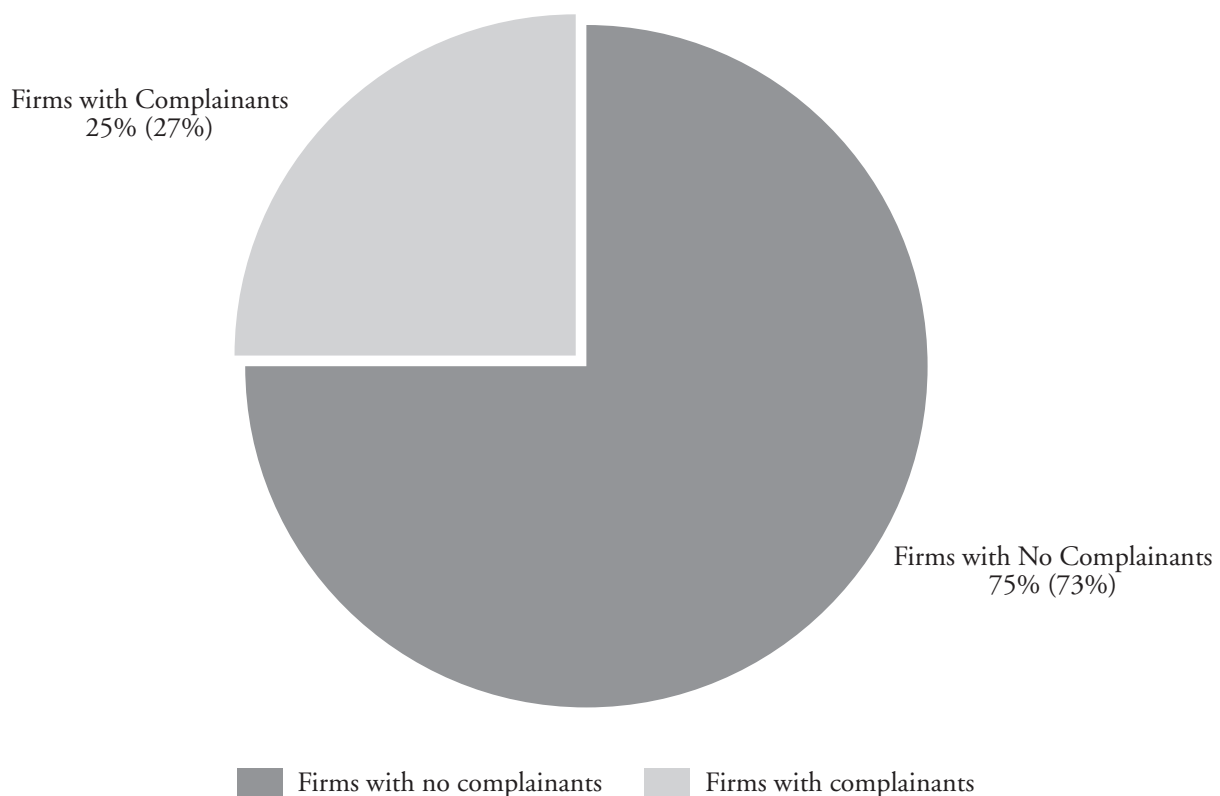
# Section 4

## Final Outcomes of Complaints made to the Law Society

*Note: The complaints referred to in Section 4 are those which achieved a final outcome in the year 2007.*

Chart A

% Number of Firms with Complainants and % Number of Firms with No Complainants in 2007



The total number of firms “on the register” at the Law Society is 533. Of these 400 (75%) have attracted no complainants. 133 solicitors firms have attracted complainants; this is 25%. These proportions have changed from 2006 levels of 27% of solicitors firms attracting complainants and 73% attracting no complainants.

Chart B

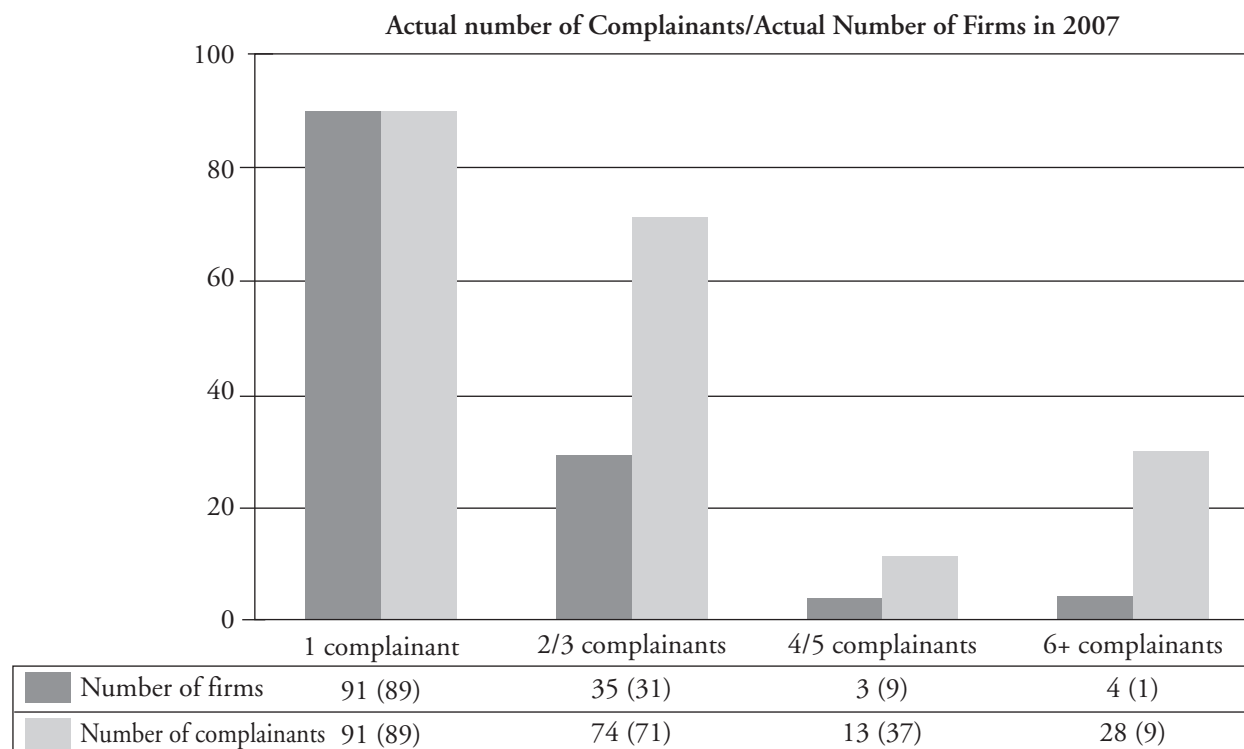
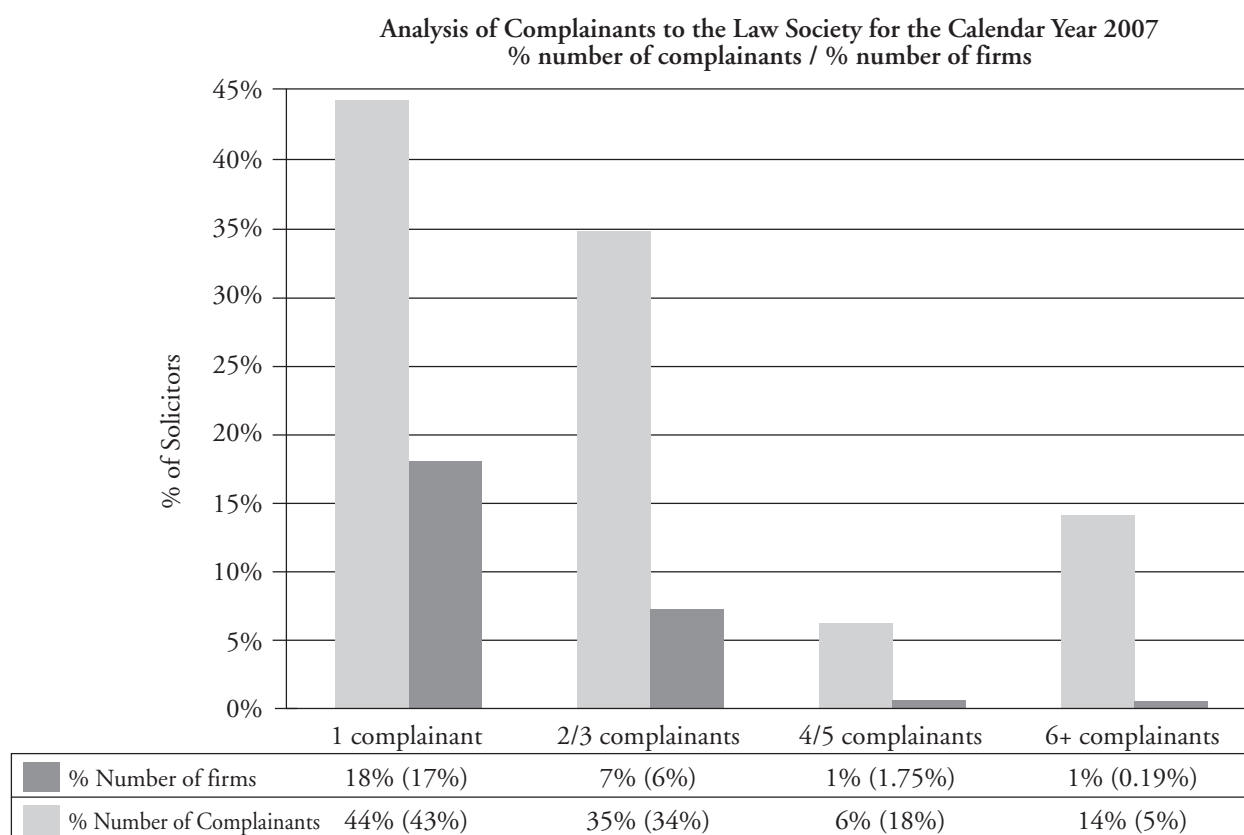


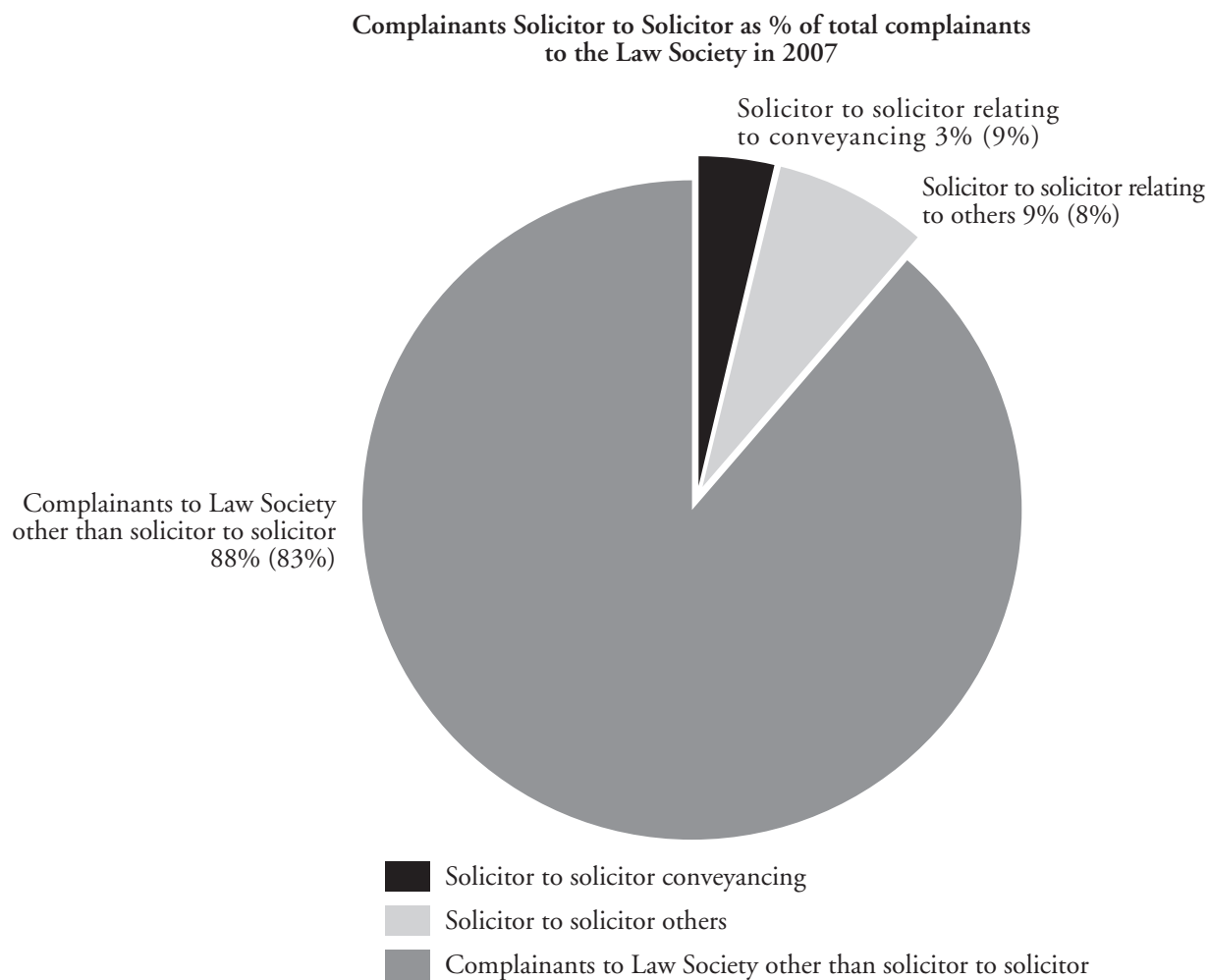
Chart B presents the actual numbers (and not the comparative percentages which are shown in Chart C). The equivalent figures for 2006 are shown in brackets.

Chart C



Figures for 2006 are shown in brackets.

Chart D



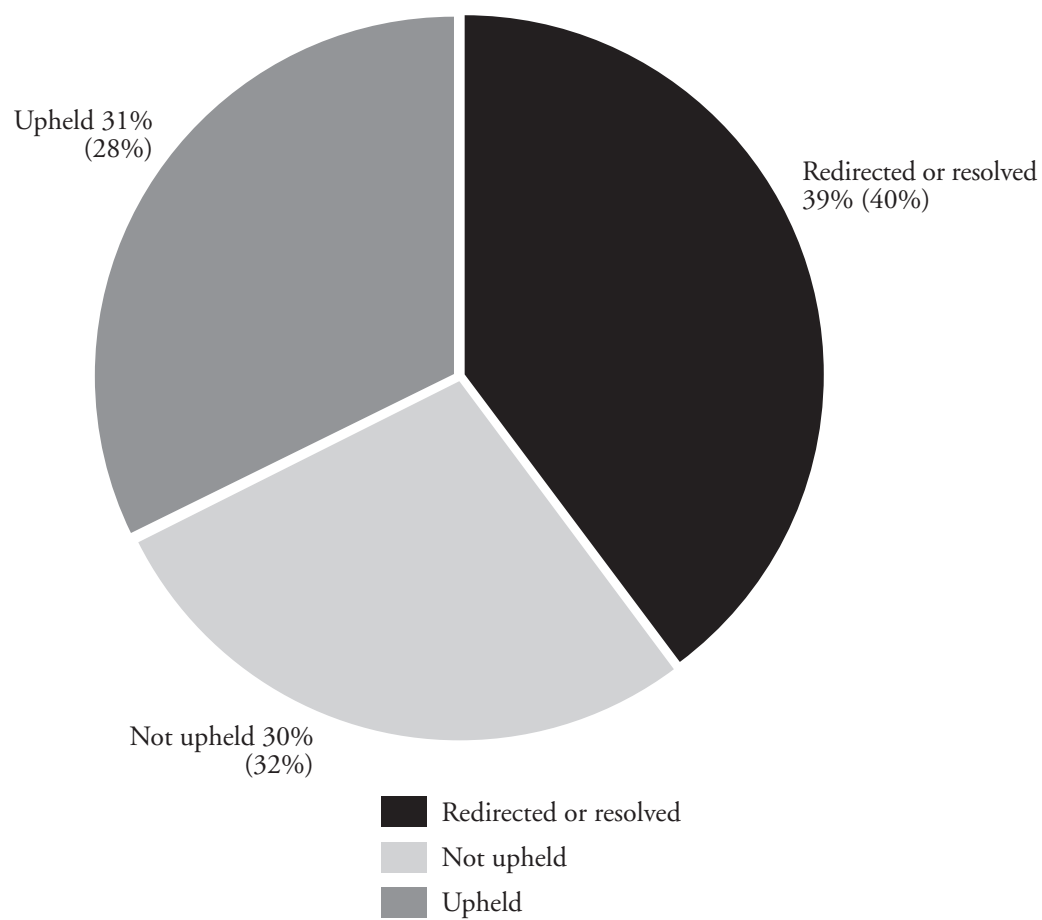
Solicitor to solicitor complainants amounted to 23 (34) out of a total number of complainants of 206 (202). 5 (18) out of the 23 (34) or 21% (53%) were conveyancing complaints.

Figures for 2006 are shown in brackets.



Chart E

Summary of final outcome on complaints registered and completed in 2007



Figures relating to 2006 are shown in brackets.

# Section 5

## *Comment on Final Outcomes*

5.1 The number of solicitor firms 'on the register' for the period concerned is 533. A lower proportion had complaints taken against them at 25% compared with 27% in 2006. A higher proportion of firms, at 75%, compared with 73% in 2006, attracted no complaints.

5.2 Chart B shows the relationship between the number of complainants forwarding complaints and the number of solicitor firms involved. In the year 2007, the number of multiple complainants to individual firms (ie two or more complainants to one individual firm of solicitors in 2007) was 42 compared to 41 in 2006. In 2005, the corresponding number was 34.

5.3 Closer inspection indicates that:

- In 2007 4 firms had more than 6 complaints  
3 firms had either 4/5 complaints  
35 firms had either 2/3 complaints  
91 firms had one complaint
- In 2007 7 firms had more than 4 complaints  
In 2006 10 firms had more than 4 complaints  
In 2005 9 firms had more than 4 complaints

The picture overall is not unduly changed. The usual caution is given that solicitor firms **do** specialise, and some types of clients and work **do** attract a greater number of complaints and complainants. Accordingly, firms should not be judged solely on the number of complaints they receive.

5.4 Chart C is about proportions and simply restates and serves to confirm Chart B.

5.5 Chart D is about complaints 'solicitor to solicitor'. Of course such complaints arise from time to time where a solicitor feels a complaint (usually on behalf of a client) must be made against another solicitor. However, the Complaints Handling Process really should not be used to put management pressure from one solicitor to another in order to achieve a result; it ought to be used fundamentally to be of direct

assistance to solicitors' clients. Solicitor to solicitor complaints in the total fell in 2007 both in terms of numbers and of proportion from 34 in 2006 to 23 in 2007 which represents 17% of the total in 2006 compared with 12% in 2007. This is a useful and welcome downward trend.

5.6 Complaints 'solicitor to solicitor' relating to conveyancing in 2007, shows a continuing improved trend which is also very encouraging. In 2006, 9% of the total complaints related to solicitor to solicitor conveyancing complaints compared with 3% in 2007. Also, in the total, the proportion of complaints relating to conveyancing fell to 33% in 2007 compared with 37% in 2006. Once again, this is a very encouraging trend which supports, in terms of result, the attention given to this category by the Law Society's Continuous Professional Development programme, their joint work with Land Registers Northern Ireland, and the profile given to the matter by the Law Society.

5.7 Chart E shows the proportion of final outcomes for complainants who registered complaints and had them concluded in 2007. The proportion of complaints upheld has increased to 31% in 2007 compared with 28% in 2006. A proportion in the total of this nature, as I said in my report for 2006, is very important, in the sense that it indicates the Complaints Handling Processes are by no means a waste of time, as some people seem to think. It shows that a significant proportion of complaints to the Law Society have very real substance, can escape the many definitional filters that currently exist, and therefore have very great significance. Of course, one complaint which is found to be justified is one too many in an important profession. Nevertheless, it is important for the public to recognise that where a complaint is justified, the Law Society does indeed find against a solicitor. That almost one third are justified ought to provide a very real incentive for improving service and professional behaviour, and must, and should, be encouraging for those who operate the Complaints Handling Systems.

5.8 It is however, an entirely different matter, which again I have explored in previous reports, that many complainants feel that the solicitors who are found to have transgressed are often let off, in their perception, far too lightly. This will most likely change in what is likely to be a harsher regime under new legislation. But of equal importance is the feeling amongst many complainants that not only do offending solicitors get off far too lightly, the wrong for the complainant simply is not put right. This is an accurate perception, as there is no direct redress, for example by compensation, for the complainant through the Complaints Handling System. In effect the complainant is acting as the eyes and ears for the regulating body. Once again this situation will likely change under new legislation.

5.9 In 2007, the proportion of complaints not upheld was 30% compared with 32% in 2006. Also, 39% complaints were redirected or resolved in 2007 as against 40% in 2006.

5.10 The times the Law Society takes to conduct complaints referrals are of interest. Once again, in 2007, there have been significant improvements. During 2007, the figures were as follows:

5.11 But these figures mask in part a changing situation. There are two notable observations. **Firstly**, the proportion of cases completed within 3 months of receipt into the process rose to 44% in 2007 compared with 2006 with 34%. This is a commendable result.

5.12 **Secondly**, there has been a significant rise in the number of complaints hanging over into 2008. In 2006 4.5% hung over into 2007, while in 2007, 14% hang over into 2008. Both features may not yet have made a full impact in the figures to date, although the 14% on-going cases in 2008, compared with 4.5% in 2007, may herald a possible effect for the 2008 figures for concluding complainant referrals.

5.13 In fact, in 2007, one member of the team who deals with complaints in the Law Society was ill for some time, a student helper went to employment elsewhere, and in addition, when the former Chief Executive left the Society, there was a period of time from mid-summer to early winter when all Law Society staff were under additional pressures. Accordingly, the Law Society has indicated to me that there may be a reduction in performance in relation to time for a period towards the end of 2007; this may well show up in the figures for 2008.

Times	2007		2006	
	Proportion	Cumulative	Prop	Cum
Within 3 months	44%	44%	35%	35%
Over 3 & less than 6 mos	31%	75%	44%	79%
Over 6 mos & less than 9 mos	8%	83%	8%	87%
Over 9 mos & less than 12 mos	3%	86%	4%	91%
In 12 months	0%	86%	3%	94%
To Disciplinary Tribunal		5%		1.5%
*ongoing	14%	100%	4.5%	100%

\*Note: While this figure is accurate overall, it relates only to cases which extend into 2008, but which had not been concluded before March 2008.

5.14 Despite these fears, it is quite evident that the timetabling of the conclusion of complaints has maintained reasonable efficiency in the ways that were reported in my last Annual Report for 2006. In 2006, 79% of complaints had been concluded, within six months, while in 2007 the corresponding figure was 75%, but 44% had been completed within 3 months in 2007 compared with 2006 when 35% had been completed within 3 months. Also, 87% complaints had been concluded in 2006 within 9 months, while in 2007, the corresponding figure was 81%. This represents a marginal regression in the middle ranges from the 2006 position, and performance will need to be carefully monitored by the Law Society.

5.15 Once again, I would like to emphasise that it is important in all of this to keep a sense of proportion. It is absolutely of the essence to ensure that complaints are properly dealt with – and complaints may well be continuing to become more complex in nature and process – rather than pursuing a slavish adherence to trying to achieve unhelpful and possibly even irrelevant targets. This is why it is essential to recognise the changing trends that underlie the statistics.

# Section 6 Complaints Statistical Tables

Table 1 COMPLAINTS EXAMINED BY THE LAW SOCIETY FOR THE 12 MONTHS ENDING SEPTEMBER 2007

Nature of Complaints	Circumstances of Complaints										Total
	Criminal Proceedings	Matrimonial Proceedings	Admin. of Estates	Conveyancing	Property Disputes	Contract Disputes	Personal Injury	Criminal Injury	Employment	Professional Negligence	Other
1. Undue delay	3	27	17	50	1	8	12	4	1	0	14
2. Withholding or loss of documents	0	7	2	13	1	1	8	1	0	0	8
3. Presentation of bills and accounts, lack of information, fees charged	2	8	3	4	1	2	1	1	1	0	1
4. Disclosing confidential information	1	0	0	1	0	0	0	0	0	0	0
5. Dissatisfaction with advice given	3	1	1	7	0	1	4	0	0	0	2
6. Acting contrary to clients instructions	6	1	3	7	0	0	1	0	0	6	2
7. Ethics or behaviour	3	14	1	16	1	2	4	2	1	0	2
8. Solicitors action caused loss	0	0	0	0	0	0	0	0	0	0	0
9. Legal aid	0	4	0	0	0	0	1	0	0	0	1
10. Other factors	0	0	0	0	0	0	0	0	0	0	0
11. All factors (total 1-10)	18	62	27	98	4	14	31	8	3	0	30
											295

**Table 2 FIVE YEAR SUMMARY OF 'GUIDE TO CIRCUMSTANCES' 2002/2003 - 2006/2007 - ACTUAL NUMBER OF COMPLAINTS**

YEARS	Circumstances of Complaints										Total
	Criminal Proceedings	Matrimonial Proceedings	Admin.of Estates	Conveyancing	Property Disputes	Contract Disputes	Personal Injury	Criminal Injury	Employment	Professional Negligence	Other
2002/03 - Year 1	11	30	20	107	5	13	48	6	1	0	33
2003/04 - Year 2	4	52	32	148	7	7	49	13	4	0	23
2004/05 - Year 3	5	45	18	140	1	10	59	8	4	0	11
2005/06 - Year 4	7	47	18	109	1	17	57	10	0	4	12
2006/07 - Year 5	18	62	27	98	4	14	31	8	3	0	30

**Table 3 MEAN STATISTICS i.e. MOVING ANNUAL AVERAGE OF ACTUAL NUMBER OF COMPLAINTS**

YEARS	Circumstances of Complaints										Total
	Criminal Proceedings	Matrimonial Proceedings	Admin.of Estates	Conveyancing	Property Disputes	Contract Disputes	Personal Injury	Criminal Injury	Employment	Professional Negligence	Other
2002/03 - Year 1	9	35	17	110	5	20	58	8	2	1	43
2003/04 - Year 2	8	38	21	124	5	17	54	10	2	0	30
2004/05 - Year 3	8	39	21	131	4	15	53	10	3	1	25
2005/06 - Year 4	8	40	21	123	3	11	53	10	2	1	21
2006/07 - Year 5	9	47	23	120	4	12	49	9	2	1	22

Table 4 FURTHER ANALYSIS OF 'GUIDE TO CIRCUMSTANCES' SUMMARY 2002/2003 TO 2006/07

YEARS	Circumstances of Complaints											
	Criminal Proceedings	Matrimonial Proceedings	Admin.of Estates	Conveyancing	Property Disputes	Contract Disputes	Personal Injury	Criminal Injury	Employment	Professional Negligence	Other	Total
Change in actual numbers, Year 1 to 5 2002/2003 to 2006/07	7	32	7	-9	-1	1	-17	2	2	0	-3	11
% Change, Year 1 to 5	63%	106%	35%	-8%	-20%	8%	-35%	33%	200%	0%	-9%	-40%
% of Total complaints in Year 1 2002/2003	4%	11%	7%	39%	2%	5%	18%	2%	0%	0%	12%	100%
% of Total complaints in Year 5 2006/2007	6%	21%	9%	33%	1%	5%	11%	3%	1%	0%	10%	100%

**Table 5 FIVE YEAR SUMMARY OF 'NATURE OF COMPLAINTS' (1-10) 2002/2003 TO 2006/2007 - ACTUAL NUMBER**

YEARS	Nature of Complaints										
	Undue Delay	W/H or loss of Documents	Bills and Accounts	Disclosing Information	Dissatisfac. with advice	Acting Contrary	Ethics or Behaviour	Solicitor's Action	Legal Aid	Other Factors	Total
2002/03 - Year 1	129	26	6	1	14	7	81	0	10	0	274
2003/04 - Year 2	150	29	13	1	10	36	91	0	9	0	339
2004/05 - Year 3	128	28	21	2	8	9	93	1	11	0	301
2005/06 - Year 4	143	33	13	2	12	10	60	1	8	0	282
2006/07 - Year 5	137	41	24	2	19	20	46	0	6	0	295

**Table 6 MEAN STATISTICS - i.e. MOVING ANNUAL AVERAGE OF ACTUAL NUMBER OF COMPLAINTS**

YEARS	Nature of Complaints										
	Undue Delay	W/H or loss of Documents	Bills and Accounts	Disclosing Information	Dissatisfac. with advice	Acting Contrary	Ethics or Behaviour	Solicitor's Action	Legal Aid	Other Factors	Total
2002/03 - Year 1	136	31	16	2	18	10	80	1	15	0	309
2003/04 - Year 2	141	33	13	2	18	15	79	1	10	0	311
2004/05 - Year 3	144	30	12	2	15	14	82	1	8	0	308
2005/06 - Year 4	141	29	13	1	12	13	79	1	9	0	296
2006/07 - Year 5	137	31	15	2	13	16	74	1	9	0	298



# Section 7

## Comments on Complaints Statistics

7.1 Section 6 provides an update for 2007 to the statistical run that has been in place for several years. The comments in Section 7 attempt to facilitate those who wish to make comparisons, observe trends and who wish to achieve greater understanding of the relativities in the figures.

7.2 The source material derives from Law Society statistics relating to the twelve months ending 30th September 2007. Raw figures are presented as well as percentages, and also averages and five year summaries; these are contained in Section 6. These figures help to indicate where there are trends, and hopefully cast a little more light on the anecdotal evidence in the Report.

7.3 It will be noted that complaints are categorised by **circumstances of complaint** and by **nature of complaint**. This enables considerable detail and cross referencing to be examined and in particular how the constituent elements describing the sources and natures of complaints can be used by the Law Society to inform its policies. These figures are used by The Lay Observer to guide strategic comments made formally and informally to the Law Society.

### GUIDE TO CIRCUMSTANCES

#### General Comment

7.4 Overall, the total number of complaints dealt with by the Law Society in the period concerned was 295, compared with 282 in 2006 and 301 in 2005.

7.5 Across all **circumstances**, there is a general stability in the figures. However, the figures for *Criminal Proceedings*, *Matrimonial Proceedings*, and *Administration of Estates* have all shown an increase in 2007. On the other hand, there have been falls in the figures for *Conveyancing*, *Personal Injury*, and *Contract Disputes*.

7.6 It should be noted that the comments in this Section on **guide to circumstances** are presented in order of classification, and not in any other order of significance. This ensures that the analysis is to the same pattern year on year.

#### Criminal Proceedings

7.7 The actual number of complaints under this heading has risen again in 2007 to 18 from 7 in 2006. The heading constitutes 6% of the total, up from 2.5% in 2006.

#### Matrimonial Proceedings

7.8 These cases represent 21% of the total in 2007 (17% in 2006). These are often distressing cases particularly where children and the breakdown of families and/or marriages occur. The Courts are working hard to find ways of ensuring the proceedings become less confrontational, and also in trying where possible to avoid the adversarial setting of the formal Court. In this endeavour, the authorities appear sometimes to be hampered by the perhaps understandable reluctance to mediate by the parties involved.

#### Administration of Estates

7.9 The figures of this particular circumstance have risen to 27 complaints (from 18 in both 2006 and 2005).

#### Conveyancing

7.10 These figures show a further fall in 2007 to 98, compared with 109 in 2006. It is encouraging, particularly that 'solicitor to solicitor' complaints in this category have fallen at a much faster rate. *Conveyancing* remains the largest single circumstance of complaint, but the attention being given to improve the service in *Conveyancing* is making excellent progress. In illustration of this, in the total, the proportion of

complaints relating to *Conveyancing* fell to 33% in 2007 from 39% in 2006.

### Property Disputes

7.11 Complaints in this category rose from 1 in 2006 to 4 in 2007. This circumstance however, is not significant in the total.

### Contract Disputes

7.12 The number of cases in this category fell to 14 in 2007 from 17 in 2006.

### Personal Injury

7.13 The figure for 2007 was 31, down from 57 in 2006. This is still a significant category in the total, and needs careful continuing attention.

### Criminal Injury

7.14 The figure remains at 8 complaints in 2007, 2006 and 2005.

### Employment

7.15 *Employment* cases have risen to 3 in 2007 from 0 in 2006.

### Professional Negligence

7.16 There were no cases in 2007 compared with 4 in 2006.

### Other

7.17 There were 30 *Other* types of circumstances in 2007 as against 12 in 2006, and 11 in 2005. Attention should be given to whether there may be an emerging category, which will require a focus of attention.

## NATURE OF COMPLAINTS

7.18 In this part of Section 7, comments on the **nature of complaints** are presented in sequence of classification and not in any other order of significance. These categories are important as they relate to the competencies of the solicitor profession.

### Undue Delay

7.19 *Undue Delay* remains the largest single **nature of complaint** and as such is a matter of concern to everyone. It is here that a considerable cost accrues for the public and clients and indeed to solicitors. In 2007, there were 137 complaints representing a minor fall from those recorded for 2006 at 143 complaints.

Principal **circumstances** relating to *Undue Delay* were:

Heading	2007	2006	2005
Conveyancing	50	62	68
Matrimonial Proceedings	27	18	21
Administration of Estates	17	11	9
Other	14	5	3
Personal Injury	12	27	20

### Withholding or Loss of Documents

7.20 The number under this heading in 2007 was 41, compared with 33 in 2006 and 28 in 2005. This might be the beginnings of a trend which should be carefully monitored.

### Bills and Accounts

7.21 The number here rose to 24 in 2007 from 21 in 2006.

### Disclosing Confidential Information

7.22 The number of complaints here was the same in 2007 as in 2006, at 2 cases.

### Dissatisfaction with Advice given

7.23 There were 19 cases in 2007, up from 12 in 2006.

### Acting contrary to Client Instructions

7.24 The number of cases doubled in 2007 to 20, having been 10 in 2006.

### Ethics or Behaviour

7.25 This heading provides the second largest number of cases under a single heading in **nature of complaints**. As such they need careful scrutiny. The figure for 2007, nevertheless, is substantially down at 46 from the 60 cases recorded in 2006. In 2005, there were 93 cases, and in 2004, there were 91. Hopefully therefore, the trend is downwards.

### Solicitors Actions Caused loss

7.26 There were no cases classified under this heading in both 2007 and 2006.

### Legal Aid

7.27 The number of complaints under this heading in 2007 was down to 6 in 2007 from 8 in 2006. *Legal Aid* is complex for lay persons to understand and with the additional degree of control by the authorities in such cases it is surprising that there are not more complaints in recent years.

## OVERALL PICTURE

### Nature of Complaints

7.28 The actual number of complaints by **nature of complaints** is noted in the following analysis:

Nature of Complaint	2007	variance	2006	2005
Undue Delay	137	-6	143	128
Withholding/Lost Documents	41	+8	33	28
Presentation Bill/Accounts	24	+11	13	21
Disclosing Information	2	0	2	2
Dissatisfaction with advice	19	+7	12	8
Acting Contrary	20	+10	10	9
Ethics or Behaviour	46	- 14	60	93
Solicitor Action caused loss	0	-1	1	1
Legal Aid	6	-2	8	11
Others	0	0	0	0
Totals	295		282	301

7.29 The picture that results from the trends, which can be seen in Table 6, and in relation to proportions and relative change in the various headings in **nature of complaints** indicates a generally steady position compared with 2006. It will take more figures to indicate a clearer picture of a downward trend.

# Section 8

## Recommendations

8.1 Complaints bring a bad name to any profession, as well as a cost to society. It is in the skilful and timely handling of the complaint that redemption can be achieved. Badly handled complaints do damage to the reputation not just of the individual professional, but also to the profession as a whole. The substantive work now going on within the Law Society to introduce new terms and conditions of service issued by solicitors to their clients and to which the profession must adhere, sets a very interesting potential new regime. It is my understanding that very much more emphasis will be given to having complaints properly concluded at the first tier of investigation ie between the client and the solicitor. All else being equal, the incidence of taking complaints through tiers two and three should therefore be reduced, as should be the accelerating damage such processes can do when not handled well. This at least is the hope. Realistically, however, there will always be difficulties, which generate complaints, and from time to time, there will always be a wish by complainants to escalate them through the second and to the third tier. However, a new regime promises better and clearer, and more balanced outcomes for the consumer and the profession alike. This is why I have chosen as my theme for this Annual Report – **Future Connections**.

8.2 In this section of my Annual Report, I firstly review my Recommendations for 2006. These were made in my Annual Report for 2006 which used as its theme **ACTION – Moving On**. In 2006, I offered five Recommendations, to which the Law Society responded in an encouraging and timely fashion on 30th November 2007. The Recommendations made, and the comments back from the Law Society are contained in full in Appendix 2. I found the responses by the Law Society to be positive and I welcome the fact that they were appreciative of my contributions to their internal considerations, with particular reference to their work in developing solicitors' terms and conditions of service for their clients.

8.3 My one reservation is about my **fourth** Recommendation which relates to the use of language.

Too often, language of a more appropriate form for use between professionals, and not for lay people is used. It is important to recognise that the use of simple english is most helpful to complainants, who are often in a state of some emotion about the subject of their complaint. The Law Society countered my Recommendation by stating that they had never received any complaints from complainants regarding the use of difficult language used by the Society. My comment on this is that they are unlikely to do so, as difficult language creates a state of further confusion, which renders a lack of clear thinking. I do not wish to enter a sterile debate on the matter, but I do urge the Society to consider the proposition that **the use of simple english is always preferable to technical or jargon ridden language**.

8.4 By the same token, the tone that is adopted is also highly significant, and should be at least empathetic to the distress being experienced by the complainant – even if in fact there may be little or no logical or objective reason for such distress. I have written before about the advisability of expressing regret that complainants are in the position they are in; this is a far cry from suggesting that such a situation is the fault of the person or entity expressing the regret. I am in no doubt that many complaints I have seen in the files, could have been forestalled or de-escalated by such an approach. It is my belief that this Recommendation should receive further attention by the Law Society in the year ahead.

8.5 I should also state that my Recommendations in my Annual Report for 2006 were more to do with continual improvement than with achieving specific outcomes. They were also offered in the context of working towards a future new regime; in other words they are developmental in nature. For this reason, I have decided that in my current Annual Report, I shall seek to offer no new Recommendation, but rather to continue to seek for further achievement under those which I offered in the Annual Report for 2006.

8.6 My **first** Recommendation for the current year relates therefore to the ongoing and developing contacts and mechanisms for communicating with the Law Society. To the three levels of contact contained in Recommendation 1 in 2006, I would add a fourth, and this has to do with regular six monthly contact with the Chief Executive of the Law Society and the Coordinator of the CPD Programme. I have been much impressed by the way in which feedback from the Complaints Handling Processes has operated within the CPD Programme. It would be encouraging to be able to report continuing progress particularly in relation to the new terms and conditions of service which will soon be adopted for solicitors and their clients.

8.7 My **second** Recommendation relates to the continuing drive by the Society to highlight and profile what is being done in handling complaints. The Society has taken steps to ensure solicitors know how important it is to avoid the escalation of complaints in the system, by proper handling of cases in the first instance. The work that the Society is doing in this regard is impressive indeed, and it should continue and be enthusiastically received and understood in the profession.

8.8 My **third** Recommendation relates to timetabling the handling of complaints in the Complaints Handling Processes. I am aware of, and have reported on the fact that performance was above expectations in the early part of 2007, while in the latter part of the year performance was below what the Law Society expected. This was because of resource difficulties to which I have already referred. Nevertheless, I am also aware that the Law Society has introduced a better methodology for case review. I simply suggest that in the year ahead efforts are made to return back on track and that improvements continue to accrue.

8.9 My **fourth** Recommendation has been dealt with above in paragraphs 8.3 and 8.4. I do indeed believe that there is scope for the use of more simple english

and that in some cases a more empathetic tone would be most helpful; it is simply good practice in dealing with complaints to do so. This is reason enough for me. It is however the case that some complainants have stated to me that they find the tone and use of professional language in letters from the Law Society to be unhelpful. Once again, I shall be looking for a continuing improvement during my investigations and in my audits.

8.10 My **fifth**, and final Recommendation has to do with working towards the future. I therefore recommend that the Law Society and The Lay Observer continue to work together to provide wherever possible the smoothest transition to a future new regime that it is possible to achieve.

8.11 As has become my custom, I urge the Law Society to consider these Recommendations, action them as appropriate and to continue its work towards further improvement in a dynamic manner, and without further ado. I also request the Society to continue to engage with me on **Future Connections**.

# Section 9

## Concluding Comment

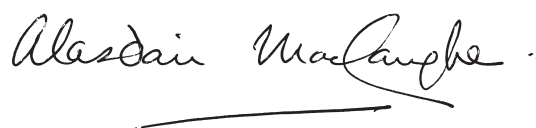
9.1 In concluding my Annual Report for 2007, I would wish to make similar comment to that made in 2006. **First**, it is important that I should acknowledge that improvements in the Complaints Handling Processes at the Law Society (and where relevant, in conjunction with other stakeholders), result from their work, and not that of The Lay Observer. Commendation due is therefore theirs.

9.2 **Secondly**, the work of The Lay Observer is governed by a set of principles to achieve best results. It is important that the key to these are timeliness, transparency and accessibility. These principles are published on my website [www.layobserverni.com](http://www.layobserverni.com), and they are further expounded in the document entitled **Principles of Good Complaints Handling**, which is published by the British and Irish Ombudsman Association.

9.3 **Thirdly**, it is vital to recognise that, although a review of the current legislation is well under way, no new parameters are yet in operation. Therefore, the Law Society and The Lay Observer are required to operate the current regime with continuing commitment. It is nevertheless important to seek to create a situation where the handover to any new regime can be as smoothly achieved as possible. I am committed to providing whatever help and assistance I can in this process to the Government and to the Law Society if required.

9.4 **Fourthly**, I am pleased to report that my suggestion that I meet at least once each year with those parties to whom I report formally under the legislation, was taken up by The Department of Finance and Personnel, and by the Council of the Law Society. It is vital to me, for purposes of public accountability, that I am, and am seen to be, personally accountable to those to whom I report formally on a regular basis.

9.5 **Finally**, a copy of this Report is sent to the principal solicitor in every solicitors' practice in Northern Ireland. This year I have presumed to request that a member of the practice be asked to review the Report to ascertain if there are any implications arising from the Report for the practice concerned.



Alasdair MacLaughlin  
31st May 2008

# Appendix 1

## Performance Indicators & Outcomes

The Lay Observer currently operates to the following standards:

- New complaints are acknowledged within five working days of receipt
- Letters enquiring about a current complaint are answered within five working days of receipt
- Investigations are concluded normally within eight weeks of acknowledgement
- Where an extension is required, the complainant is informed prior to the expiration of the original eight week estimate, with full reasons
- No serious complaint against The Lay Observer to be substantiated
- Annual Report to be published according to programme; publication date is 31st May each year
- Every solicitor practice, MLA, Northern Ireland MP, any other MP with an interest in Northern Ireland and appropriate members of the Upper House to have received a copy of Annual Report by end June each year
- Service to be provided within budget

While objective standards are vital, subjective indicators should also be observed.

The Lay Observer:

- Seeks to provide a courteous, prompt and efficient service
- Communicates in simple english and does not use jargon
- Empathises with the complainant, while offering a strictly neutral investigation
- Sets out the facts as he sees them
- Provides reasons for arriving at a decision
- Provides any appropriate suggestions, which must not be interpreted as legal advice

Alasdair MacLaughlin  
1st January 2007

Note: Amendment September 2007

The Lay Observer also seeks to meet those criteria that are consistent with the legislation and protocols which are contained in the British and Irish Ombudsman Association booklet entitled *Principles of Good Complaints Handling*, published 2007.



# Appendix 2

## RESPONSE TO THE LAY OBSERVER'S ANNUAL REPORT 2006

(Action: Moving On)

### INTRODUCTION

This is the formal response of the Law Society of Northern Ireland to the report of the Lay Observer entitled **Action: Moving On**. As in other years this formal response is in addition to the ongoing work which the Society is embarked upon, to improve the overall quality of service provided by solicitors to their clients and by the Society to complainants, taking cognisance of, not just the Report, but also the opinions and recommendations of the Lay Observer, provided at formal meetings and as identified in the course of the Lay Observer's commentary in individual cases, where complainants have been in direct contact with him.

The Law Society is embarked on a detailed examination of the proposals contained in Sir George Bain's report on the structure of legal services regulation, with a view to determining the regulatory impact those proposals will have for the Society and the future structures and staffing levels which the Law Society may have to have in place to meet those demands. At the same time the Society will continue its commitment to delivering an effective and fair system of complaints handling under the current statutory framework and will use that system to inform and target those areas of service that appear to cause the most client dissatisfaction. As ever, the Society welcomes the Lay Observer's input into the Society's internal considerations and is grateful for his advice.

### Recommendation 1

*My first Recommendation this year relates to the nature of my meetings with the Law Society. I recommend that in the coming period my contact with the Law Society should take three main forms:*

- *With the President and his team and the chairman of the Client Complaints Committee on an annual basis to discuss overall strategy, and to re-affirm the importance with which complaints handling and external oversight is taken by the Law Society as well as the Lay Observer.*
- *With the Chief Executive/Secretary of the Law Society to discuss on-going activity between the Lay Observer and the Law Society at a strategic level and as events require.*
- *With the Assistant Secretary as required, along with the Chairman of the Clients Complaints Committee when appropriate, on an ad hoc basis defined by expediency.*

*This has been found to work well during 2006, and it should be continued in 2007.*

### Response

The Law Society is pleased that the working relationship between the Lay Observer and the Law Society's Management Team for complaints handling has evolved in a satisfactory and positive way for the benefit of the public and the profession alike. The Society is committed to the ongoing maintenance of appropriate channels of communication with the office of the Lay Observer and is willing to meet the Lay Observer, as the situation merits. In addition, there has been a tradition of an annual meeting between the new President of the Law Society and the Lay Observer and the Law Society would certainly encourage that practice to continue.

### Recommendation 2

*My second Recommendation relates to the importance of providing continuing profile for complaints processes and in particular to highlight how complaints processes can help ensure a better quality of service to the client of the solicitor. This can also be used to show that the Law Society*



*continues to give high priority to improvement in relation to better complaints handling by solicitors. It is my understanding that there is to be an initiative in 2008 relating to the terms and conditions of service that solicitors will be expected to provide to clients. This is aimed at giving a greater clarity to the client both of what he can expect from the solicitor, and how the client himself can contribute to a better delivery of service. This will likely include when and how a client should complain and to whom. This is intended to give attention in every client/solicitor relationship to clearer criteria for delivery of a quality legal service, nearer to the point of supply of that service. I recommend that every opportunity be taken by the Law Society to ensure that members understand what is being done, why and how this can relate to a more complaint free service.*

### Response

The Law Society has always striven to imbue in its members the need to deliver quality legal services, so that the individual clients remain confident in the legal profession as a whole and regard their solicitors in a positive light. It is in the interests of both the public and the profession that this confidence is retained. The Law Society sees its regulatory functions and complaints handling as essential tools in the maintenance of such public confidence. Like the Lay Observer, it also recognises that there is now a need for a structured approach to complaints and complaints handling within the individual firms so that all firms avail of the opportunity to resolve clients' concerns in a positive way for the mutual benefit of both the client and the firm close to the point of delivery of the service. The initiative mentioned by the Lay Observer is well underway and it is hoped to have the relevant regulation in place for 2008. The Society will then embark on a road show to the profession explaining how the regulation and code of practice attached thereto will be expected to work in practice. The Society acknowledges with thanks, and intends to implement, the Lay Observer's advice in relation to reasonable time limits

for clients to raise complaints with their solicitor's firm and with the Law Society, and for the firm to respond adequately to the client under the proposed in-house complaints process. The Society has, in order to highlight the fact that conveyancing is the most common cause of complaint by concerned clients, published in the February edition of the Writ a detailed article on this issue and on the importance of firms having a comprehensive in-house complaints procedure. Furthermore, the Society has organised, for the end January/early February 2008, a series of CPD lectures entitled 'Nailing Conveyancing Problems' which will specifically address the most common causes of complaint in conveyancing cases. This will be followed by other CPD courses which will deal with other common causes of complaint e.g. in matrimonial work.

### Recommendation 3

*My third Recommendation is about timetabling. At present, the Law Society aims to conclude its complaint handling process for each complaint in 12 weeks. In practice it is clear that this is not possible in every case. It is my understanding that the Law Society aims to conclude a case as quickly as possible consistent with delivery of a thorough review and investigation of the complaint. It is also evident, as I have shown at paragraph 4.5 above, that the cases that are referred to me are becoming gradually more time consuming to investigate, either because of the volume of material from the complainant and/or the solicitor that has to be examined. Although as yet the Law Society has no mechanism in place to carry out analysis similar to that provided in paragraph 4.5 above, it is clear from anecdotal evidence that their experience is very similar to mine. Accordingly, I think that, while it is appropriate for the Law Society to aim to complete within 12 weeks, it is right that the Society make it clear to every complainant on receipt of the completed complaints form, a realistic timetable for the conclusion of his/her complaint form experience. Should this require review in the light of the events of any investigation, I recommend that the Law*

*Society inform the complainant of any such re-assessment. It is unrealistic to expect that every case will be concluded in a standard period of twelve weeks; so to pretend that it is possible is not helpful. It is my understanding that work is already underway by the Law Society to provide a regular rolling review of every case on a three-month basis. In the context of the time taken to conclude complaints in the Law Society, consideration of the data in paragraph 5.8 above is interesting. In fact, looking at behind these figures, three-quarters of all complaints are completed within in or around 14 to 20 weeks from registration. To me the overriding principle should be that each complaint should be concluded as quickly as possible but consistent with a thorough investigation and treatment of the particular case.*

## Response

The Law Society wholeheartedly agrees with the Lay Observer that the objective should be to ensure that individual cases are thoroughly investigated and considered carefully, and that time constraints should not be allowed compromise that objective. It also agrees that complainants' expectations of the process should be based on realistic information and accepts that better feedback to complainants in the course of the process would be beneficial. In terms of the current system, all cases are reviewed at the end of their three-month cycle, to ensure that they are moving forward. Revision of the standard correspondence to complainants and to solicitors about the complaints process is ongoing. The re-drafted correspondence will be used in conjunction with the revised information leaflets and forms and will hopefully reduce frustration with the system, as it will be more clearly explained and therefore should lead to better managed outcomes for complainants. In the longer term the Law Society anticipates, that with the introduction of an in-house complaints service for solicitors' firms, there will not only be a reduction in complaints to the Society, but also, where the parties have been unable to resolve their differences, the outstanding issues will be more precise and require less

time-consuming analysis, with a resultant reduction in the time taken to process the individual cases. Careful consideration has been given to the Lay Observer's suggestion of discrete timetables for individual cases and his suggestion for flexibility in the system is welcomed. The Society would want to engage with the Lay Observer over the coming months on this issue.

## Recommendation 4

*My fourth Recommendation relates to written language used in communication with clients. I have commented on this in previous reports. It is my clear view that language that is appropriate for use between professionals is not appropriate for use with the lay complainant – even when the lay complainant uses such language him/herself. I recommend that the Society review this matter carefully, and resolve to communicate with complainants using plain English. I shall be looking out for examples of where this does not happen during my audits in 2007.*

## Response

The Law Society strives to deal with all complainants in a professional and courteous way and respond in a manner consistent with the needs of the complainant. It is aware and mindful of the Lay Observer's concerns but notes that the Law Society has not received any complaints from complainants regarding difficult language used by the Society in the course of investigating a complaint. However, if a complainant indicates that he/she does not fully understand why the Society has reached the decision it did then that complainant should be provided with a further explanation. The current complaints process is, however, primarily about examining the legal service provided by solicitors, and therefore, in the interests of accuracy and precision, professional language is sometimes unavoidable in explaining why a legal case took a certain course and that a complainant, though disappointed with the legal outcome, received a professional service.

## Recommendation 5

*My fifth Recommendation relates to the perhaps rather obvious look to the future in the light of the eventual results of the Review of Legal Services in Northern Ireland. In particular, I recommend that this should be a subject of continuing attention for discussion between the appropriate office bearers and staff including the new Chief Executive/Secretary of the Law Society after appointment and the Lay Observer. In this way preparation in relation to dealing complaints by the Society and by the Lay Observer and under any future regime, will be kept under review.*

## Response

The Law Society welcomes any advice and assistance that the Lay Observer can provide in preparing the way for the regulatory changes. Its office bearers and staff are happy to engage with the Lay Observer on these matters, particularly when the Northern Ireland Assembly brings forward its detailed framework for change. The new Chief Executive, Mr Alan Hunter took up his post on 1st October and is engaged with detailed planning for the anticipated changes and looks forward to a positive and productive engagement with the Lay Observer over the coming months.







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