

Update on the Law Society of Scotland's compliance with SLCC recommendations

Introduction

The Scottish Legal Complaints Commission's (**SLCC**) oversight function forms a core part of the regulatory system for legal services in Scotland. We provide independent oversight of the complaints and redress system of the Law Society of Scotland (**LSS**).

Our aim is to ensure the LSS runs a well functioning conduct complaint handling process. By analysing trends in complaint handling we aim to drive improvement and ultimately to promote public confidence in the regulation of legal services.

Under Section 36 of the 2007 Act, if we identify trends in conduct complaint handling, we can give guidance to the LSS on the timescales within which it should complete its conduct complaint investigations. We can also make recommendations about its procedures for, and methods of dealing with conduct complaints.

Conduct complaint investigation timescales

Between 2020 and 2022 we identified that LSS conduct investigations were routinely taking longer than its published target timescale of about 12 months. To understand if the trends identified in handling investigations were representative of conduct complaint investigations overall, we analysed 792 conduct complaints.

Based on our analysis of the data, we concluded that the trend we had seen across handling complaints was broadly reflective of the timescale of conduct investigations overall. This is of concern due to the multiple risks associated with delay in the investigation of conduct complaints. For example;

- public protection issues associated with solicitors continuing to practice whilst under investigation
- complainers conclude their complaint is not being taken seriously, which may impact public confidence in the complaints process
- a negative impact on the effectiveness of administration and decision making
- a negative impact on the confidence of the legal profession that disciplinary matters are dealt with effectively and swiftly.

The LSS recognised the impact delays can have on the parties involved and confirmed its commitment to reduce the time taken to report on complaints.

In March 2023, we published our [final report](#) and made three statutory recommendations to mitigate the risks associated with delay in the investigation of conduct complaints.

In June 2023, we published an [update report](#) on the LSS's response to our recommendations. We sought a formal written update on progress against the LSS's 2022-23 action plan in November 2023. We asked for confirmation that the update detailed below had been shared with the LSS Regulatory Committee and its Complaints and Oversight Sub Committee, which are responsible for the Society's regulatory functions.

LSS update on compliance with recommendations

Recommendation 1: Set a realistic and achievable target timescale for the completion of conduct investigations as a key performance indicator (KPI)

In its operational year 2022 -23 (1 November 2022 to 31 October 2023) the LSS set a target for the median age of complaints of under 380 days. We encouraged the LSS to aim to set a more ambitious target for its current operational year (1 November 2023 – 31 October 2024), to ensure the majority of complaints are completed within its then published target timescale of about 12 months.

In its current operational year, the LSS have set a key strategic measure to reduce the median complaint resolution time to under 350 days. The LSS believe this is a realistic and achievable reduction, but ultimately want to improve timescales further.

The SLCC consider that a 30 day reduction from last year's target represents good progress and reflects the increased resourcing allocated to the management of conduct complaints.

Recommendation 2: Improve the transparency of communications with both complainers and solicitors on the timescales for the completion of investigations and on the progress of investigations

We welcome the improvements the LSS have made to communications about timescales and the progress of investigations. Parties are now given a routine update at least every 8 weeks during the investigation stage. The LSS notify parties when a complaint reaches the recommendation stage and commit to providing an update in 12 weeks if the recommendation is not completed within that time frame.

The LSS has also recently updated the timescales information on its website. On its [How we investigate conduct complaints](#) page indicative timescales are now given for the four main stages of its complaints process and a total indicative timescale of 10 –

14 months. Information on the factors that may affect investigation timescales is also provided. The LSS now link to this information in the initial correspondence sent to the parties to a complaint. The SLCC considers this to be a significant improvement in the transparency of the information published by the LSS on timescales.

Recommendation 3: Create a plan of action to achieve the new key performance indicator detailing how and when the improvements outlined in the LSS's response to our reports will be achieved

The LSS developed an action plan for 2022-23 focused on the areas detailed below. The LSS have provided the following update on its improvement action plan.

Increased resources and department structure

Two additional full-time equivalent reporters have been recruited. Following a department restructure, the LSS also appointed a new Disciplinary Proceedings Manager to oversee the complaints going to Committee and to the Scottish Solicitors Disciplinary Tribunal (SSDT). The Regulatory Directorate have secured budget for additional resource for its current operational year and are currently considering how best to utilise that resource.

Further improvements to the recommendation process

The LSS have implemented a new policy in relation to reviewing reporter's recommendations, moving to a more targeted and proportionate approach. The new approach will be monitored and reviewed. The LSS are of the view this change in approach has the potential to positively impact on investigation timescales.

The SLCC welcomes this more proportionate approach as a means to achieving improvement in investigation timescales within the constraints of the current complaints process.

Health issues in conduct complaints

Under the current legislation the LSS are unable to discontinue investigations. This can present an issue in complaints against solicitors with serious ill-health, when the public interest is not served by continuing disciplinary proceedings. The LSS are currently working to secure an enabling power to discontinue cases as part of the Regulation of Legal Services (Scotland) Bill.

To improve the accessibility of its processes, the LSS have developed and published a [Reasonable Adjustments Policy](#). Initial letters have also been updated to better highlight the resources available to support parties through the complaints process.

Other areas of improvement

- As a result of increasing its focus on aged cases, the LSS has resolved some of the oldest conduct complaints. This work will continue in the current operational year.

- The LSS have created a central data store to hold its management data. Work to improve its data will continue this year, including a user requirement analysis to assist in the development of its case management system.
- Work to complete a high-level process map of the LSS's conduct complaints process was completed last year.
- Work on first tier complaints will continue this year. The LSS's Complaints and Oversight Sub-Committee oversees this work and are in the process of appointing a new Convener.

Next steps

The SLCC welcomes the work done by the LSS to date to improve its investigation timescales. This provides assurance that the LSS remain committed to improving its investigation timescales and how it handles conduct complaints. This will benefit both the public who make complaints and solicitors complained about and ensure the risks associated with delay are minimised.

We will continue to monitor the progress of the LSS against the statutory recommendations at our quarterly meetings and when undertaking handling complaint investigations.

To engage and continue to support LSS we will in November 2024 seek a formal written update on progress as part of an annual cycle of assurance. In March 2025, we would plan to publish an update report on the progress LSS has made.

March 2024