



Complaint handling training for Newly Qualified Solicitors

*to provide tips for Client Relations Managers to assist
newly qualified solicitors deal with complaints*

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Introduction

Complaints are a feature of professional life, and arise just as commonly for the legal profession as for other professions.

For many firms, they may find that newly qualified solicitors do not generate a large number of complaints as they tend to be more closely supervised than their more experienced peers. Nonetheless, when a complaint is made, it is important that they are adequately equipped to deal with it.

Ensuring that all members of staff including those newly qualified have an awareness of how a complaint should be dealt with, and what their responsibilities are when faced with even the threat of a complaint, is likely to make it easier to resolve a complaint at the earliest possible opportunity.

Not only does good complaint handling reflect well on the professional concerned, and contribute to better client relations, it also makes good business sense.

If approached correctly, complaints can provide an insight into the needs and expectations of clients and, where a complaint is justified, can be used to drive up standards of service delivery.

1. Background & Objectives

- 1.1. The SLCC undertook some research to establish what information was available to individuals once restrictions had been lifted from their practising certificates, how much they knew about the complaints system, and what further information and training they would like to see in this area.
- 1.2. A questionnaire was also circulated to newly qualified solicitors in Scotland by the Scottish Young Lawyers Association (SYLA) about their experience in complaints handling and prevention. The respondents were asked 5 questions:
 - Do you know your firm's internal complaints process?
 - Have you undergone any training in complaint handling/prevention?
 - When was the last time you underwent any complaint handling/prevention training?
 - Who do you think is responsible for dealing with a services complaint?
 - What type of information and/or training would you like to see in complaint handling/prevention?
- 1.3. One of the most surprising results from the questionnaire was that 46% of the respondents were not familiar with their own firm's internal complaints process, or were not aware that their firm had one.
- 1.4. In terms of further information and training about complaints, 74% of those surveyed further stated that they would like to see a best practice note in this area. With that in mind, the SLCC has created a dedicated note not only for newly qualified solicitors on complaint handling and prevention, but also this separate guide for Client Relation Managers.
- 1.5. It is hoped that this note will be a useful training tool for you when providing in house training to staff, particularly those who are newly qualified. This will not only help avoid the common pitfalls which tend to lead to complaints, but should also make those less experienced staff better equipped to deal with complaints.

2. Who is liable for complaints?

2.1. The table below sets out who is liable under the disciplinary and complaints procedures for trainee and newly qualified solicitors:

	Service complaints	Conduct complaints	Hybrid complaints
Trainees (years 1-2)	<p>Complaint can be about supervising solicitor and/or firm</p> <p>*Complaints about trainee solicitors are reported to the Law Society’s Education, Training and Qualifications Team and the Society’s Complaints Investigation Team</p>	<p>Complaint can be about supervising solicitor</p> <p>Complaints about trainee solicitors are reported to the Law Society’s Education, Training and Qualifications Team and the Society’s Complaints Investigation Team</p>	<p>Complaint can be about supervising solicitor (for conduct element)</p> <p>Complaint can be about supervising solicitor and/or firm (for service element)</p> <p>Complaints about trainee solicitors are reported to the Law Society’s Education, Training and Qualifications Team and the Society’s Complaints Investigation Team</p>
Trainee admitted on roll in year 2	<p>Complaint can be about trainee, supervising solicitor and/or firm</p>	<p>Complaint can be about trainee and/or supervising solicitor</p> <p>Complaints about trainee solicitors are reported to the Law Society’s Education, Training and Qualifications Team and the Society’s Complaints Investigation Team</p>	<p>Both trainee and possibly supervising solicitor (for conduct element)</p> <p>Trainee, supervising solicitor and/or firm (for service element)</p> <p>Conduct complaints about trainee solicitors are reported to the Law Society’s Education, Training and Qualifications Team and the Society’s Complaints Investigation Team</p>
Newly qualified solicitors (and beyond)	<p>Complaint can be about solicitor and or/firm</p>	<p>Complaint can be about solicitor</p>	<p>Solicitor (for conduct element)</p> <p>Solicitor and/or firm (for service element)</p>

*The Law Society’s Education, Training and Qualifications Team will refer complaints about trainees to its Admissions Sub Committee. The Committee will decide whether the matter gives rise to concerns about the trainee’s fitness and properness to be a solicitor and to take any necessary action.

Assumed knowledge

- 2.2 There is an element of assumed knowledge that a solicitor who is new to the profession will know what to do, who to go to, and who is responsible when a complaint is received.
- 2.3 It may be the case that their understanding of what should happen is very different from your firm's own internal complaints handling process. For example, 37% of those who were surveyed thought that it was just the Client Relations Manager who was responsible for dealing with a services complaint. It is clear, therefore, that there is some confusion as to what should happen with a complaint when one is received and who should be dealing with it.

If a newly qualified solicitor receives a services complaint, who is liable?

Answer:

- ✓ The newly qualified solicitor
- ✓ Any supervising partner
- ✓ The Client Relations Manager
- ✓ The firm

- 2.4 Whilst ultimately it may be you, as Client Relations Manager, who answers the complaint, without input from the person against whom the complaint has been made, their supervising partner, and the senior partners or directors of the firm (for approval of any decision made), it can prove challenging to deal with a complaint adequately.
- 2.5 **It is important that all staff, especially those new to your firm and those who are newly qualified, are made aware of the correct process in your firm and what their personal responsibilities are.**

3. Identifying a complaint

3.1 Section 46(1) Legal Profession & Legal Aid (Scotland) Act 2007 defines a complaint as:

“any expression of dissatisfaction”

3.2 The definition of a complaint is very broad. It can be a challenge to recognise when someone is raising a query or concern and when a complaint is actually being made, especially for someone new to the profession.

3.3 It is important, therefore, that the statutory definition of a complaint is known by all staff and, in particular, newly qualified solicitors, who are no longer subject to any protection from complaints once issued with their full practising certificate.

3.4 It is important to advise staff that complaints do not have to be in writing. Complaints are either received directly from the person complaining or via the SLCC. Oral complaints are an acceptable form of communicating concerns, although the SLCC would usually expect to see written confirmation that a complaint has been made, and so it would be a good idea to ask for any oral complaints to be put in writing if possible.

4. Dealing with complaints

4.1. When delivering training on complaint handling/prevention, there are basic steps which all staff should follow to ensure good complaints handling. These are:

- Do not ignore a complaint
- Know and follow your firm’s internal complaints process
- Alert the Client Relations Manager
- Seek help
- Keep records
- Learn from mistakes

Do not ignore a complaint

- 4.2. One of the most important messages to get across to staff, especially those newly qualified, is not to ignore a complaint when one is received and just hope that it will go away. Encourage engagement with the client at the earliest possible opportunity to flush out the issues.
- 4.3. Staff should also be alive to the fact that complaints can be made by anyone, not just clients. The duty of confidentiality is paramount and staff should be reminded of this to avoid breaching confidentiality when dealing with a complaint from non-clients. The rules surrounding client confidentiality, however, should not be used as a reason not to deal with complaints from non-clients, and they should be provided with a reasoned response to their complaint, subject to any limits of the client's consent.

Know and follow your firm's internal complaints process

- 4.4. Rule B 5.5.2 of the Solicitors (Scotland) Practice Rules 2011 states that all firms must have a written procedure for dealing with complaints. 46% of the young lawyers who were surveyed admitted to either not being familiar with their firm's own complaint process, or were not aware of their firm even having one.
- 4.5. It is essential that the firm's internal complaints process is known by all staff so that anyone who receives a complaint knows the correct steps to follow. Rule B 5.5.3 of the Solicitors (Scotland) Practice Rules 2011, further states that any client or former client of the firm who requests a copy of the written complaints process must be provided with it, within 28 days of the request being made.
- 4.6. Complaints should be dealt with in accordance with the firm's written process. It is also important that the person who is complaining is aware of the firm's complaints process and has easy access to it.

Alert the Client Relations Manager

- 4.8. Ensure that all staff alert you, as Client Relations Manager, about any complaint, even a potential one. Sit down with newly qualified staff and tell them about the role of the Client Relations Manager and how you might be able to assist them in dealing with a complaint, or advise on how to proceed. You may wish to deal with the complaint yourself, contacting the complainer directly, to try and resolve matters early.

Seek help

- 4.7. You may find that many newly qualified solicitors will be uncertain about how to proceed when a complaint has been made. Reassure them that they should not be afraid to say or seek the help of others. Newly qualifieds may be reluctant to speak up, but you should encourage them to do so. A good relationship between the Client Relations Manager and staff is essential to create an open and honest workplace and avoids complaint issues being hidden for fear of reprisals.
- 4.8. It is important to remind newly qualified staff that no matter how good a service they provide, or aim to provide, there will always be instances where they will not be able to avoid a complaint being made. Stress that the next worst thing (apart from ignoring a complaint) is for them to struggle with it on their own.

Keep records

- 4.9. Not only is a firm under a professional obligation to keep their files in good order, good file keeping can also prove an important defence against complaints. In particular, make sure that you record instructions received from, and advice given to, clients.
- 4.10. Rule B 5.5.1 of the Solicitors (Scotland) Practice Rules 2011 also requires firms to ensure that a central record of each complaint and the way it is dealt with is kept. Given that the definition of a complaint is very broad, this is a good way of logging any expressions of dissatisfaction which may come your way.
- 4.10. Experience shows that keeping records of complaints received can help identify common themes to complaints being made and areas of service delivery which can be improved upon.

Learn from mistakes

- 4.11. As the majority of business comes from repeat clients, the importance of having a good complaints process which deals with genuine concerns quickly and retains the client relationship should not be overlooked. Best practice would be for that process to also include some form of evaluation of the complaints which have been received, the near misses, and complaints which are not upheld. For newly qualified solicitors, it is also a good opportunity for them to see first-hand, the types of complaints that the firm has received, which otherwise they wouldn't necessarily be aware of.
- 4.10. Carrying out regular in-house training and sharing experience with all staff and different departments is a great way to ensure that any best practice is shared widely and that everyone is receiving the same consistent training. Not only that, but promoting the risk/learning process operated by your firm to show lessons are being learned will also result in a more progressive, transparent and client-focused organisation.

5. Best practice in complaints prevention

- 5.1 Every year the SLCC works with over 1,000 members of the public who wish to make a complaint about legal practitioners. We have more experience than any other organisation of identifying, examining and determining the service issues which arise from complaints.
- 5.2 More often than not, complaints do not arise from technical legal matters but from situations where there have been shortcomings in the adequacy of the advice, or more commonly, from failures in how effectively advice has been communicated to the complainers.
- 5.3 The SLCC's guidance on "**Best practice in complaint handling – a guide for solicitors**" (available from our website) clearly sets out what we consider to be the principles of a good complaint handling process. The document also outlines what the SLCC considers to be best practice for solicitors to adopt when dealing with a complaint.

 [Best practice in complaint handling- solicitors](#) (PDF, 572 KB)

6. Further information

- 6.1 If you feel that your firm would benefit from more information on complaint handling and prevention, or if you would like to discuss matters in more depth, please contact the Oversight Team at the SLCC at SLCC.Oversight@scottishlegalcomplaints.org.uk .
- 6.2 We can arrange a meeting with you/your firm to discuss training on complaints and issues that lead to complaints.
- 6.3 In addition to the SLCC, you can always seek advice from the Law Society of Scotland's Professional Practice Department, if you would like advice on a particular transaction or area of law/business that you are currently dealing with (rather than about how to deal with a complaint).

- 6.4 More information can be found on our website including a short video on our mediation process, case study examples, best practice notes and published decisions.
- 6.5 You can also sign up to receive our CRM Newsletter-
<https://www.scottishlegalcomplaints.org.uk/for-practitioners/crm-newsletter.aspx>

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If you want to find out more about us and what we do, please visit <http://www.scottishlegalcomplaints.com/>

We are open from 9am until 5pm, Monday to Friday, apart from Tuesday when we close for staff training between 10am and 11am.

If you need information in another language or in large print or on audio CD, please get in touch.

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