

The  
Annual Report of  
the Lay Observer  
for Northern Ireland

2020/21

## Contact Details

**Marian Cree**

Lay Observer

Legal Services Oversight Commissioner for NI

Room 26 Dundonald House

Upper Newtownards Road

BELFAST BT4 3SB

Email: [marian.cree@legalcommissioner-ni.org.uk](mailto:marian.cree@legalcommissioner-ni.org.uk)

Website: [www.layobserverni.com](http://www.layobserverni.com)

This report can be accessed on [www.layobserverni.com](http://www.layobserverni.com) and requests for alternative formats can be submitted at [marian.cree@legalcommissioner-ni.org.uk](mailto:marian.cree@legalcommissioner-ni.org.uk).

SOLICITORS (NORTHERN IRELAND) ORDER 1976

SOLICITORS (AMENDMENT) (NORTHERN IRELAND) ORDER 1989

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

Laid before the Northern Ireland Assembly pursuant to Article 42(8) of the Solicitors (Northern Ireland) Order 1976.





# Chapter 1:

## Opening Comments



Marian Cree

- 1.1 This is my fourth report since being appointed on 3rd April 2017 as Northern Ireland's first Legal Services Oversight Commissioner (LSOC). As set out in all of my previous reports, the secondary legislation necessary to enact all of the LSOC powers has still not been made. This was initially due to the collapse of the NI Assembly in January 2017. Whilst the Assembly has now resumed its functions, Covid 19 has added a further complication and the Assembly is yet to pass the legislation associated with my office. Consequently, I continue to act in a dual role as both LSOC, carrying out some preliminary work, and, primarily, as the Lay Observer for Northern Ireland. Although the Act provides for an LSOC report, that provision is not yet commenced, therefore this report is provided under the existing Lay Observer legislation, the Solicitors Order (Northern Ireland) 1976. It focuses on my work as Lay Observer but does also include some narrative on my work as LSOC.
- 1.2 This report reflects my work from April 2020 to March 2021, in the context of the complaints process as it relates to solicitors and the Law Society NI. The Lay Observer role relates only to complaints associated with solicitors and, ultimately, the Law Society. The LSOC role is more embracing in the context that it will, once implemented, relate to both solicitors and barristers.

- 1.3 I am writing this report in the current climate associated with Covid 19. The entire reporting period covered by this report has seen both solicitors and the Law Society work within the constraints associated with Covid 19. Consequently, the solicitor and Law Society complaints processes, as well as my requirements to access the data needed for the report to bring it to the proofing and publication stages, have all been carried out against the backdrop and constraints of Covid 19 restrictions.
- 1.4 I wish to acknowledge upfront in my report the very positive approach the Law Society adopted to its complaints process in relation to the restrictions associated with Covid 19. They strived to ensure that all solicitors and complainants, or prospective complainants, received an acknowledgement and a response to their correspondence, as well as providing appropriate updates. They introduced new remote working measures to assist in the capture of all soft and hard copy correspondence, and held remote weekly casework review meetings to discuss ongoing business and to plan responses. They used email when possible to communicate with complainants, whilst still providing a hard copy paper service for those complainants without IT access. They dealt with all of my requests to access and review files, as well as dealing with numerous follow up requests from me. All of this enabled the complaints process to operate throughout the Covid restrictions, including periods of 'lockdown'.
- 1.5 As stated in my previous reports, a key trend in the resolution of complaints for clients is that it does not always result in the outcome the client hopes for. This is due to a number of reasons, not least the fact that the powers of both the Law Society and my office in dealing with this aspect of complaints handling are limited. Consequently, the existing process that is operated within the boundaries of legislation has yet again flagged up the fact that it does not always serve the needs and interests of the client – something which the new process, envisaged under the Act, would aim to address. This report, however, presents another twelve month period which has seen a continued positive trend in how complaints are registered and handled by the Law Society.

# Chapter 2:

## Role of the Lay Observer

- 2.1 The Lay Observer for Northern Ireland is the public official charged with overseeing the Complaints Handling System in place covering the solicitor profession in Northern Ireland. The work of the Lay Observer is governed by a set of principles clearly laid out on my website ([www.layobserverni.com](http://www.layobserverni.com)). It is to be noted that I also operate my role to the standards laid down by the Ombudsman Association, of which I am a member. It is from these standards that, in part, I derive my legitimacy as a complaints handler and in the way I carry out my work.
- 2.2 I investigate complaints from clients who have exhausted the complaints process, firstly with their solicitors (Tier 1), and secondly, the solicitors' representative and regulating body – the Law Society of Northern Ireland (Tier 2). Mine is the final stage in the Complaints Handling Process (Tier 3).
- 2.3 My post as the Lay Observer for Northern Ireland is part-time. I employ no staff and all administrative tasks and secretarial work are carried out by me directly, in addition to investigations and auditing. My work is located either at the Law Society or in my own home.
- 2.4 During the year I have had valuable meetings with the President, the Senior Team and with the Chief Executive of the Law Society, representing the Council. I am grateful for these meetings, and for their generally most constructive nature. I value this contact as it enables both parties to consider strategic matters, and provide an exchange of views and information appropriate to that level.
- 2.5 My day to day links are with the Law Society's Head of Professional Conduct and his staff. I can report that in 2020/21 I found them to be very helpful, accommodating and professional. I am particularly grateful for the efforts they made to provide me with necessary data to assist in the completion of my report, especially as they did so with the working constraints brought about by Covid 19.
- 2.6 I maintain helpful and excellent contact with the Department of Finance at all levels. This is my sponsoring Government Department, and appropriate personnel provide support for my function in a number of ways. In particular, I can be contacted by complainants through their address, as well as a website, which technical persons in the Department maintain on my behalf. I wish to thank the Permanent Secretary for making all this possible.

- 2.7 On day to day matters, I link with Mr Jonathan McNaught and his colleagues. I thank them for their very willing and invaluable facilitation, which is often proactive, and always imaginative, in providing advice and help in solving any problem I may face.
- 2.8 The Lady Chief Justice takes an interest in my work. Her role in our Justice System provides a distinctive overview of the work of the solicitors' profession, and I value her advice and observations. She is, of course, a formal recipient of my Annual Report under the legislation.



# Chapter 3:

## Law Society Complaints Statistics 2020/21

3.1 When the Law Society receives a complaint, it is classified firstly according to the type of professional work involved. These are termed **circumstances of complaints**. A **category** is then assigned to the complaint, which in most cases can be analysed under several different categories of types of complaints. The figures provided by the Law Society for 2020/21 are as follows:

**Table 1: Circumstances of the Complaint / number of associated Complaints**

Circumstance of complaint	Number	Circumstance of complaint	Number
A. Accidents	13	L. Immigration & Asylum	1
B. Bankruptcy & Insolvency Debt	1	M. Land & Property Disputes	2
C. Commercial Work	0	N. Libel & Slander	0
D. Contract Disputes	0	O. Licensing	0
E. Conveyancing	14	P. Mental Health	0
F. Criminal Injuries & Criminal Damage compensation	1	Q. Planning	0
G. Criminal Law	1	R. Personal Injury	3
H. Employment Law, Equality/Discrimination Issues	1	S. Professional Negligence	0
I. Enforcement of Judgments	0	T. Trusts, Tax & Financial Planning	1
J. Family Law – Children	4	U. Wills, Probate & Intestacy	17
K. Family Law – General	11	<b>TOTAL</b>	<b>70</b>

Note: *In most cases a single complaint may be included under one or more heading.*

**Table 2: Category of Complaints / number of associated Complainants**

Nature of Complaints		
Code	Category	Number of Complainants
1	Undue delay or inaction	57
2	Failure to keep client properly informed	65
3	Delay/Failure to respond to reasonable enquiries	54
4	Withholding/loss of documents	13
5	Disclosing confidential information	1
6	Acting in conflict of interest situation	3
7	Acting contrary to the client's instructions	19
8	Breach of undertakings	3
9	Failure to provide bills of costs/cash statements; incurring expense without client's authority	14
10	Failure to deal with legal aid issues properly	3
11	Failure to provide proper client care information or not complying with agreed client care arrangements	2
12	Failure to provide proper costs information including Legal Aid Rules at the outset of the transaction or not adhering to arrangements made	9
13	Failure to properly consider client's complaints under solicitor's own in-house complaints procedure	53
14	Other factors	2
	<b>All factors (total 1 – 14)</b>	<b>298</b>

# Chapter 4:

## Comment on Complaints Statistics 2020/21

### Number of Complaints

4.1 In the 2020/21 year the Law Society received a total of 70 individual complaints covering 298 categorised areas. These complaints were made in relation to 61 solicitors. 7 solicitors' firms had more than one complaint made against them during the period of this report, with 1 solicitor's firm receiving 4 complaints. It is worth noting that 17 of the 70 individual complaints related to these 7 solicitors firms, which equates to approximately 24.2% of the complaints received by the Law Society.

The outcomes of the 70 individual complaints that were received by the Law Society were:

Not Upheld	30
Upheld	26
Discontinued	4
Resolved	7
Ongoing	3

4.2 It is worth noting that one of the upheld complaints also resulted in the solicitor being referred to the Solicitors Disciplinary Tribunal, which can have a profound effect on the solicitor's ability to practise. Whilst all of the other upheld cases had some degree of sanction against the solicitor, it should be noted that twenty two cases had a formal warning/reprimand associated with them. I would suggest this reflects that the Law Society continues to take a sterner approach to the area of complaints.

4.3 These outcomes are extremely positive and demonstrate the extent to which the Client Complaints Committee (CCC) strives to deliver a fair outcome based on all of the facts they gather to inform their decision. It also demonstrates the Law Society's commitment to maintain standards and execute their powers as the Regulator for the sector.

## **Circumstances of the Complaint**

- 4.4 It is difficult to draw comparisons with previous year's reports in relation to the 'circumstances of the complaint'. In my previous reports, Conveyancing received the highest number of complaints, accounting for 25 of the 86 complaints the Law Society received in 2019/20, which equated to 29% of all of the complaints received in that year. In this reporting period, however, it accounted for 14 of the 70 complaints, which equates to 20% of the complaints received. Whilst it would be a positive step if complaints regarding the area of conveyancing was showing a downward trend, I am unable to draw that conclusion. I say this as the housing market was static for a period of time during the Covid 19 pandemic and this downward trend may just be a result of the lack of associated transactions. Furthermore, complaints under the heading of Accidents, which also featured in last year's report as an area of concern, remains high this year with 13 complaints and equates to 18.5% of the complaints received. During this reporting period, Wills, Probate and Intestacy had 17 complaints associated with it compared to 5 in 2019/20. This equates to approximately 24% of the complaints received. This is a significant and worrying increase. In essence, these 3 areas make up 62.5% of all complaints received during 2020/21.
- 4.5 I am aware that the Law Society uses this data and identifies trends to inform the Continuous Professional Development (CPD) programme for solicitors – I commend this approach. I am also aware of the proactive steps that the Law Society continues to take in picking up on these type of trends and addressing them through a number of strategies. I will comment further on this in Chapter 5 of my report.

## **Category of Complaints**

- 4.6 On review of the overall categorised complaints figures outlined in table 2, it is clear that in the majority of complaints made, the key issue was poor communication on behalf of the solicitor – this has been the key issue in all of my reports since I took up office. Categories 1, 2, 3, 7, and 11 above, all of which relate to communicating with the client, were the basis for 197 of the 298 categories associated with the 70 complaints the Law Society received – in essence, approximately 66%. So often, my role in dealing with complaints is explaining to the complainant what the solicitor, and in some instances the Law Society, seems to have been unable to communicate when they have attempted to resolve a complaint. It could be surmised that many of the complaints would not have got to the second tier of the complaints process if the solicitors who had complaints made against them had adopted a more proactive and regular communication approach with their client.

- 4.7 A more concerning issue is the fact that 53 of the categorised complaints related to the solicitor failing to properly consider the client's complaints under the solicitor's own in-house complaints procedure. Whilst the Law Society has continued to take significant steps to address this issue and remind solicitors of their obligations regarding complaints, it is unacceptable that a solicitor would believe that not dealing appropriately with a complaint from a client who has paid for their services is acceptable. This issue has appeared every year in my Annual Report as an area of concern, yet is still a dominant feature of the complaints analysis. I would suggest that the Law Society may wish to consider taking a much sterner approach on this issue when deciding on sanctions against a solicitor.
- 4.8 Finally, it is most important to note that **the level of complaints against solicitors in Northern Ireland remains very low**, unlike in the legal professions elsewhere in the United Kingdom, and in comparison with many other fields of professional activity. This should be seen, as I have emphasised before, in the light of the enormous volume of transactions that solicitors here must undertake for clients every year. No-one knows how many this must be, but given there were 475 firms (excluding sub offices) practising within private practice at 31st March 2021, then I would assume the volumes of transactions are in the thousands

# Chapter 5:

## Work of the Lay Observer 2020/21

### Review Requests/Outcomes

- 5.1 During this reporting period I received 25 requests from individuals requesting that I investigate their complaints relating to the legal profession. I formally reviewed 11 of these complaints, which had already been reviewed by the Law Society's Client Complaints Committee (Tier 2). This equates to 15.7% of the complaints that were subject to the Tier 2 process. This compares to the 17.4% that I reviewed last year, which demonstrates a continuing positive trend of less complaints reaching the Lay Observer process (Tier 3). I upheld 2 of the 11 complaints that I reviewed and will come back to this issue later in this chapter.
- 5.2 I also dealt with 14 other queries from complainants where the nature of their query was either outside of my remit, or I carried out some remedial investigation to enable me to signpost them to other organisations/bodies who could provide assistance. These queries can be equally as complicated or time consuming. In two particular cases, the complainants were Asylum seekers who corresponded at length with me over a period of time. In other cases, the complainants were wishing to complain about legal fees, conduct issues or Barristers. A common issue I receive relates to complainants that wish to complain about a solicitor who they are not a client of. Whilst I always provided a response to these types of queries, my remit does not permit me to investigate complaints of this nature. I also received correspondence from Members of the Local Assembly. Their queries related mainly to the lack of powers associated with the Lay Observer and queries regarding the implementation of the full powers associated with the Legal Services Oversight Commissioner.
- 5.3 As with previous reports by the Lay Observer, the cases I received during the period of this report were mainly complex in nature. The complexity derives mainly from the fact that many complaints have multiple categories associated with them as outlined in the above statistics. The increase in categorised complaints has contributed to the length of time it takes for me to review a case, as I have to satisfy myself that I have reviewed every aspect of the complaint. On average it takes 6 weeks to investigate a complaint from the time I receive it until I issue my final report.

## Key Issues

- 5.4 With regards to the complaints that I upheld, the main issue for me was mainly down to unacceptable levels of communication by the solicitors with their clients. In one case the client was sent to the wrong courthouse on two separate occasions resulting in a bench warrant being issued to the client for non-attendance at the court hearing! Whilst a formal warning was issued to the solicitor by the Law Society, the client received no compensation and was left with the option of pursuing lengthy, costly and stressful legal proceedings to try and prove negligence. Unfortunately, this is the only option left open to a complainant under the current legislation governing solicitor complaints.
- 5.5 In the other case, despite the client agreeing a set fee with the solicitor, further charges were added and which the client was not notified of throughout until presentation of the final Bill. During my review I noted the solicitor used terminology such as - the client was 'fully aware' or 'is aware', that is not a solicitor's call to assume what a client is or is not aware of without explicitly checking their understanding of the issue firstly – the solicitor made assumptions they should not have made. Legal fees are not cheap – even a few hundred pounds can be a lot of money to many people, which they need to plan and budget for. Also, the legal system can be very intimidating and confusing to lay people who are not versed in it. If a service provider agrees a set fee, it is normal to assume that is the price you will pay for the service. It is not acceptable to agree a set fee then charge other fees on top of that, unless you have explained these additional charges fully with the client. If the client is not happy then they have the right to take their business elsewhere. They may find out that all other providers will charge them the same extra costs, but at least they are furnished with all of the information. Whilst it may appear minor in nature to some solicitors, it unfortunately caused a significant unexpected bill to the client.
- 5.6 This is an issue that has been referenced increasingly in the complaints I review and therefore it is not restricted to the above individual complaint that I upheld. In another case, the complainant was issued with an additional Bill AFTER the complainant made a complaint. The final Bill had already been issued before the complaint was made. Whilst I am not questioning or challenging the fact that the work associated with the additional Bill was carried out by the solicitor, I do question why it was added to the Bill after a complaint was made. If the complaint had not been made, then the original Bill would have stood and the complainant would have been obliged to settle for that amount.
- 5.7 I raise this issue for a number of reasons, not least the message it sends to potential complainants. I also feel that if left unmentioned, it may happen again which, from my oversight role, I find to be an unacceptable practice by the legal profession. Northern Ireland is a small place and word of mouth travels fast and

to many. Whilst it is unlikely there was any malicious intent, it can appear that way to complainants and deter genuine individuals from complaining even if their complaint is valid.

- 5.8 From my oversight perspective, I would have preferred to see a statement coming from the Regulator to all of the sector advising of the importance of clarity in costings up front, and ongoing updates as costings start to accrue over and above what may have been agreed with a client. I would also have hoped that a more serious penalty would be adopted for solicitors not providing this type of clarity, should similar complaints come before the Law Society in the future.

## **Law Society Enhancements/Training**

- 5.9 As I stated earlier in my report, it is very positive to note that the Law Society, and specifically the Client Complaints Committee (Committee), have taken a proactive approach to the issues I have raised with them and have taken steps to address some of these issues. In the period covered by this report, the Law Society has introduced a number of enhancements to the complaints process, as well as providing training on a number of issues relating to complaints. These include:

- The Committee provided additional online guidance to solicitors in order to demonstrate effective communication with clients. They produced an online video setting out the requirements to ensure effective communication with clients, to include proper responses to in-house complaints raised. The online video was sent to each member of the profession through the Society's E-nformer and is also hosted on the Society's website.
- In relation to enhancing the adequacy of professional services provided to clients, the Committee provided an updated list of practitioners providing Immigration Law advice and assistance. This list was prepared after engagement with the Society membership and is available on the Society's website. It has also been shared with organisations working in the areas of immigration practice and support. In addition, the Head of Professional Conduct, on behalf of the Committee, presented a seminar on the Society's complaints procedures to a number of immigration groups and organisations, facilitated by the Red Cross in order for those organisations and their members to better understand the process of raising a complaint and of a solicitor's professional responsibilities when providing a legal service.
- With regard to identifying areas to enhance the effectiveness of client complaint management, the Society created a Client Care, Communication and Complaints Hub on the Members' Section of the website. Members can access information on client care correspondence, in-house complaint management and dealing with complaints relating to a Bill of Costs, along with guidance on how to respond to a client complaint raised by the Society. The Hub also



contains an overview of how the Society investigates and determines client complaints as well as providing links to the Lay Observer's report and website for further information.

- As with other Society business, the delivery of CPD courses were moved online during the pandemic, including the delivery of a seminar on Litigation complaints and management. The seminar was delivered by an experienced practitioner who is also a long standing member of the Client Complaints Committee. The Head of Professional Conduct delivered a number of online seminars on areas including 'Bills of Costs and Effective Communication'; the Preparation of Bills; and the Provision of Client Care and Costs Information to Solicitor Trainees. A further interactive online workshop took place with trainees on client complaint management. These measures are part of the Society's ongoing approach to inform solicitors at the very earliest stage of their careers of their Regulatory obligations, as well as demonstrating best practice in an area that continues to cause complaint.

5.10 It is also worth noting the various additional steps the Law Society took to address the working restrictions associated with Covid 19 and which allowed the complaints process to continue to operate:

- The Society moved its complaint procedures online at the outset of the pandemic. It continued to use its complaints email inbox along with the online complaints portal to enhance accessibility for complainants. The measures introduced were of great assistance during the initial lockdown phases. The Society, upon review, has continued with the online offering whilst also providing complainants the choice to submit hard copy complaint forms and documentation.
- The Society paused Client Complaints Committee meetings for a short period at the initial lockdown phase of the pandemic in March 2020. Online Complaints Committee meetings commenced in June 2020. The Committee sat additionally in July 2020 in order to advance complaint cases. Meetings have continued online to the present time and business has been concluded within applicable target timeframes.

5.11 All of the above demonstrates a willingness within the Law Society to continue to improve their complaints process for all concerned. It shows their desire to make the process more transparent and customer focused, whilst still working within the legislative and regulatory framework which governs them and all solicitors in Northern Ireland.

5.12 Whilst my office is independent from the Law Society, there is still an element of working together in the interests of the overarching complaints process. Regular meetings with the Society's Head of Solicitor Complaints and members of the CCC have resulted in many of the changes that I have outlined above being developed and introduced by the Society.

# Chapter 6:

## Work of the Legal Services Oversight Commissioner

- 6.1 As noted earlier in this report, I am still operating in a dual role, albeit the greater percentage of my time has been devoted to the Lay Observer functions. The Lay Observer role relates only to complaints associated with solicitors and ultimately the Law Society. The LSOC role is more embracing in the context that it will, once fully implemented, relate to both solicitors and barristers. In the past 12 months I have continued to maintain communication with both the Law Society and the Bar Council in relation to the new processes envisaged under the Legal Complaints and Regulation Act (Northern Ireland) 2016 (the 'Act'). Consequently, without the necessary secondary legislation being in place to introduce the outworkings of the Act, momentum for developing the new processes has been diminishing, however, as I am writing this report, the Department of Finance has commenced the remedial work necessary for the secondary legislation to be brought before the NI Assembly. Discussions have taken place with myself and with the Law Society and the Bar Council on the next steps, including development of an implementation plan to see the phasing in of the new processes at the earliest opportunity.
- 6.2 As with previous reporting periods, I have received a number of complaints from individuals that I have been unable to assist as their complaints did not fall within the legislation associated with the Lay Observer and the current Law Society complaints process. These complainants, however, would have been able to have their complaint investigated under the new legislation associated with the LSOC. Issues such as the complaint not being received within the legislative timeframe or the complainant not being the direct client of the solicitor are examples of issues that would be eligible under the new Act.
- 6.3 The inability to award compensation to those complainants whose complaints have been upheld is another issue that would be possible under the new process and was yet again a key area of complaint for a number of individuals who wrote to me. I have found myself apologising to those complainants that, whilst their complaint has been upheld, there is no financial recompense available to them. This has been very regrettable and frustrating for both me and the individuals. I have had to explain to those individuals that whilst the office of the LSOC has been established, the complaints process that sits alongside that office has not been introduced.

# Chapter 7:

## Closing Comments

- 7.1 Whilst I continue to enjoy the challenges of both the Lay Observer role and that of the LSOC, it has been another frustrating year due to the limited progress that has been made on the new complaints processes. In essence, the Complaints Handling System of the Law Society continues to operate under the current legislation whilst preliminary work continues to run alongside it in preparation for the practicalities of the new arrangements. This position is one that the Law Society (like me) have no other choice but to operate, as they too must abide with the legislation as it exists today.
- 7.2 Notwithstanding the above, the positive issues I have outlined in my report demonstrate the willingness and commitment by the Law Society to continue to improve the complaints process. Although all improvements to the current processes bring the Society closer to the type of complaints service envisaged under the new Act, it must be emphasised that the current process is not delivering many of the outcomes that should be available from a complainant's perspective. Even an 'upheld' decision by the Client Complaints Committee does not bring the complainant any tangible outcome against the solicitor. Independent legal advice and a potential long and costly legal process is still their only option to seek compensation for poor or negligible services received from a solicitor. I genuinely hope I am still in office to see the new powers introduced and a more balanced complaints process in operation.
- 7.3 This Annual Report is presented to the Lady Chief Justice of Northern Ireland, the Permanent Secretary Department of Finance and the Council of the Law Society Northern Ireland, pursuant to Article 42 of the Solicitors (Northern Ireland) Order 1976 and Article 17 of the Solicitors (Amendment ) (Northern Ireland) Order 1989. It is also laid before the Northern Ireland Assembly pursuant to Article 42(8) of the Solicitors (Northern Ireland) Order 1976.

- 7.4 I understand the Law Society will take steps to ensure that every solicitor on the Northern Ireland register receives a copy electronically. **I hope that solicitors will make it their business to review the content of the report and to determine its relevance to the work of their own firms.**



**Marian Cree**

**Legal Services Oversight Commissioner for NI**

Room 26 Dundonald House

Upper Newtownards Road

BELFAST BT4 3SB

Email: [marian.cree@legalcommissioner-ni.org.uk](mailto:marian.cree@legalcommissioner-ni.org.uk)

Website: [www.layobserverni.com](http://www.layobserverni.com)

# Appendix 1:

## Who is the Legal Services Oversight Commissioner?

I, Marian Cree, have been the Legal Services Oversight Commissioner since 1st April 2017. My appointment is for an initial terms of 3 years and has recently been renewed for a further 3 years.

My career has been varied. I left school aged sixteen and joined the Northern Ireland Civil Service. I became a career civil servant spending the next thirty two years working across a wide range of posts including Head of Learning and Curriculum Policy within the Further Education Division with lead responsibility in NI for the Reform and Regulation of Vocational Qualifications and the curriculum within the FE sector. I had lead responsibility within the Department for Employment and Learning (DEL) for the joint working policies with the Department of Education on 14-19 reforms including the Post Primary Review. I was also Deputy Programme Manager for a range of joint DEL/ Social Security Agency Welfare Reform Projects.

In more recent years I was the Head of Energy Policy at the Consumer Council NI (CCNI) with responsibility for developing policies in line with CCNI's statutory duties on all aspects of the energy market in NI. A key function of my role was to represent consumers' interests in the 'Price Control' and 'Tariff Review' process for regulated energy companies.

I was the initial appointee as the Head of the Competition and Markets Authority (CMA) Office NI office when it opened in May 2015. My role brought me into contact with a wide range of organisations in both the private and public sector organisations such as the Institute of Directors, Confederation of British Industry, Federation of Small Businesses, Manufacturing NI, and law firms in NI which provide advice and services on competition law. I was involved in a number of the CMA Market Studies including Energy, Legal Services, Pay Day Loans, Care Homes, and Banking. Whilst not all of these Market Studies covered Northern Ireland within their scope, I was responsible for ensuring that the outworking's of these Market Studies were brought to the attention of the relevant Regulators and Government Departments in NI and to assess the extent to which they could be incorporated in their policies going forward.

I also hold a non-remunerated Board position with ASCERT. This is an organisation that helps young people and adults with addiction problems by providing initiatives and support programmes to reduce harm and support positive change.

I am a mother and a grandmother and play a very active role in my daughter, and her two children's lives.

# Appendix 2:

## Law Society Response to Lay Observer Report 2019/20

### RESPONSE OF THE LAW SOCIETY OF NORTHERN IRELAND TO THE 2019/20 ANNUAL REPORT OF THE LAY OBSERVER FOR NORTHERN IRELAND

#### Introduction

- 1.1. This is the Law Society of Northern Ireland's formal response to the Lay Observer's Report for 2019/20.
- 2.1. The Society welcomes the Lay Observer's Report, which is the third such report published by Ms Marian Cree, since her appointment in April 2017.
- 3.1. The Society has taken time to review the detailed published comments of the Lay Observer. The Annual Report was considered at length by the Society's Client Complaints Committee and Council. The report was also made available to all Society members and they were encouraged to review the published findings. The Society acknowledges the positive assessment of work undertaken in the management of client complaints during 2019/20 and wishes to place on record our recognition of the important role that the Lay Observer plays in assisting the Society to improve the effectiveness of our complaint management procedures.
- 4.1. The Society also wishes to acknowledge the work of the members of the Society's Client Complaints Committee (CCC) and in particular the Lay Members who make a significant contribution to the decision making of the CCC. The Committee relies on its' members to provide insight and expertise on areas of legal practice as well as in the provision of services and advice to members of the public. The Lay members provide a unique non-legal perspective to the adjudication of complaints which assists in determining complaints fairly as well as ensuring that decisions are set out to complainants in a clear and easy to understand fashion.
- 5.1. The Society notes the Lay Observer's comments that the level of complaints against solicitors in Northern Ireland remains very low. This is encouraging in light of the enormous volume of transactions that solicitors undertake for clients every year.
- 6.1. The Society takes assurance from the Lay Observer's comments that the outcomes of the CCC demonstrates the extent to which the Committee strives to deliver a fair outcome based on all the facts.

- 7.1. The Society recognises that the number of referrals to the Lay Observer continues to decrease and takes encouragement from the Lay Observer's findings where none of the referrals from complainants in 2019/20 resulted in the complaint being upheld by the Lay Observer.
- 8.1. The Society remains committed to working collaboratively with the Lay Observer in order to maintain effective systems of complaint management, taking available opportunities to remind solicitors of the opportunity to learn lessons from complaints and using complaint experiences to improve standards of professional service.

## **Continuing Professional Development (CPD)**

- 9.1. The Lay Observer commends the Society's approach on our use of data and trends to inform the CPD programme for solicitors. The Society believes that this approach can be an effective way of identifying areas where additional training may be required. Periodic analysis of relevant complaints data helps to shape our CPD programme. Separately, the CCC identifies themes through complaint casework where attention should be focused. This will also lead to the circulation of regulatory notices to members on topics identified through the work of the Committee.
- 10.1. The Society requires solicitors to include three hours Client Care and Practice Management group study in their personal CPD programme. All solicitors are obliged to do a minimum of ten hours group study overall and a further five hours of private study. Group study may consist of workshops, seminars, lectures and tutorials.
- 11.1. The challenge presented by the recent pandemic has also provided an opportunity for the Society to transfer the delivery of its CPD programme online. This has opened up the potential for more members to access CPD content. To date the Client Complaints Committee has supported online CPD events to members on Bills of Costs and effective communication. This event was streamed live to members and was also recorded to facilitate further online engagement.
- 12.1. In addition, the Head of Professional Conduct presented an online CPD seminar on the topic of effective complaint management. This presentation set out the regulatory obligations on a solicitor to effectively respond to in-house complaints as well as the provision of client care and costs information. The seminar referred to case study samples dealt with by the Committee as well as service issues referenced by the Lay Observer in her investigatory reports.
- 13.1. Forthcoming online CPD sessions include standalone Client Complaints Seminars in a number of distinct areas of practice; Managing Client Complaints in Family Proceedings, Client Complaints in Probate Law, Client Complaints in Conveyancing Cases and Complaints in Litigation Matters. The Committee has identified these

particular areas as attracting higher volumes of complaints. The seminars will be delivered by experienced practitioners in the relevant areas and will refer to key themes including, (i) In-House complaints, (ii) Effective Communication and (iii) Learning Lessons.

- 14.1. The Society recognises the need to highlight the impact that good client care can have on reducing risk, both legal and reputational. Since January 2017 all Principal Solicitors, Consultants and Assistant Solicitors in private practice are required to complete at least two hours of Compulsory Risk Management CPD annually. The Society has designed a bespoke Risk Management module which covers three key areas; Letters of Engagement, Insurance Master Policy and Anti Money Laundering Regulations. The Letters of Engagement portion has been introduced to focus on a key element of client complaints. The seminar provides practitioners with clear insight into applicable risks associated with the provision of client care and costs information as well as the risk management benefit of effective in-house complaint procedures.
- 15.1. The Society delivers a Client Complaints seminar in an intensive day-long session for trainees at the Institute of Professional Legal Studies. Attendance at the seminar is compulsory. This seminar enables the Society to set out professional requirements in the management of client complaints at an early stage in a trainee's career and encourages the use of effective communication and best practice when managing service complaints.
- 16.1. The Head of Professional Conduct also provided an online seminar to Trainees on the preparation and delivery of Bills of Costs. This is an area that continues to attract complaints. The seminar covers the statutory requirements when preparing a Bill and elaborates on the need for effective communication with clients when agreeing costs. The seminar also draws upon case studies from matters dealt with by the CCC to illustrate the importance of clear communication.

## **Complaint Statistics 2019/20**

- 17.1. The Lay Observer notes, as a positive trend, the reduction of categorised complaints received by one hundred during the period of 2019/20 when compared to the preceding year. Similarly, the number of registered complaints has reduced from 101 to 86 in the same period. The Society is similarly encouraged by these results.
- 18.1. The Society's analysis of our categorised complaints highlights a noticeable number of complainants who raise concerns regarding a solicitor's failure to properly deal with a complaint under their in-house complaint procedure. The Society has published regulatory notices reminding members of their obligation



to respond appropriately to in-house complaints as well as highlighting in our CPD seminars the risk benefits of properly and fully addressing complaints at first instance. This area of complaint will be highlighted specifically in our forthcoming complaint seminar series.

19.1. In 2019/20 the Lay Observer investigated fifteen referrals from complainants compared to twenty-two in 2018/19. The Lay Observer notes that this equates in percentage terms to 17% of complaints compared to 21% the year before. This is a positive outcome for the Society particularly where the Committee refers the complainant to the Lay Observer if they are dissatisfied with the treatment of their complaint by the Society.

20.1. The Lay Observer did not uphold any of the fifteen complaints investigated during the year and the Society believes that this reflects positively on the work of the CCC.

## Outcomes

21.1. The Society notes the Lay Observer's observations that the complaint outcomes from 2019/20 were extremely positive and demonstrates the extent to which the Client Complaints Committee strive to deliver a fair outcome based on all the facts as well as the Society's commitment to maintain standards and execute their powers as the Regulator.

22.1. The Lay Observer regularly provides helpful service improvement suggestions. The CCC receive and review all the Lay Observer's reports to incorporate the recommendations into our complaints procedures. The Society considers this engagement as a key component in improving our treatment of client complaints.

## Service Improvements

23.1. The Society takes this opportunity to reference two important pieces of work undertaken with a view to improving our complaint process and the service we provide:

- *Complaints Portal* – The Society has created a portal, hosted on our website, to assist complainants to submit complaints online. This portal provides relevant complaint information and increases accessibility for members of the public seeking to raise service complaints.
- *Complaints Email* – The Society introduced a dedicated complaints email inbox where complainants can correspond directly with the client complaints team. This email acts as a single point of contact for complainants.

## **Concluding Remarks**

- 24.1. The Law Society welcomes the report of the Lay Observer for Northern Ireland.
- 25.1. The Society considers the determination of client complaints as a vital part of our regulatory role. The Society also acknowledges the important role that the Lay Observer plays assisting in the oversight of service complaints as well as ensuring our effectiveness as the regulator of solicitors in Northern Ireland.
- 26.1 The Society takes assurance from the findings of the Lay Observer in her report and remain committed to managing and improving upon a complaint process that enhances the adequacy and effectiveness of professional services provided by solicitors.



Published and printed by DoF, Digital Print Services,  
Craigantlet Buildings, Stoney Road, Belfast BT4 3SX  
Tel: 028 9016 3396

978-1-912313--0

