



Regulation of Legal Services in Other Jurisdictions

RESEARCH PAPER

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INTRODUCTION

The following offers an overview of the legislation, policies and structures governing the regulation of legal services in the jurisdictions of England and Wales, Scotland, Northern Ireland, the Republic of Ireland, Jersey and Guernsey.

ENGLAND AND WALES

LEGISLATION

The [Legal Services Act 2007](#) created an independent body to deal with consumer complaints and established the Legal Services Board, which oversees the legal regulators in England and Wales.

LEGAL SERVICES BOARD

The [Legal Services Board](#) was established by the Legal Services Act 2007 and became fully operational on 1st January 2010. The Board is independent of the Government and the legal profession. It is responsible for overseeing the ten [approved regulators](#) in England and Wales. The Board also oversees the organisation established to handle complaints about lawyers, the [Office for Legal Complaints](#) (OLC), which is the Board of the Legal Ombudsman.

THE LAW SOCIETY AND THE SOLICITORS REGULATION AUTHORITY

The Law Society is the representative body for solicitors in England and Wales and also the approved regulator. Because the Legal Services Act 2007 requires regulation to be separate from representation, the Society's regulatory functions are carried out by the independent [Solicitors Regulation Authority](#) (SRA).

The SRA deals with failures to comply with professional standards obligations, such as keeping affairs confidential or acting honestly and with integrity. These standards and obligations are set out in the Authority's Principles and Codes of Conduct.¹

A person must usually first complain to the lawyer or law firm directly. If s/he is not satisfied with the outcome, s/he may take the complaint to the SRA. However, because complaints are frequently about poor service rather than non-compliance with the SRA Principles, the SRA may refer the matter to the Legal Ombudsman.²

The SRA cannot award compensation. As its powers are regulatory, action will instead be taken to help or order the lawyer or law firm to comply with their obligations.³

THE BAR COUNCIL AND THE BAR STANDARDS BOARD

Similar to the Law Society, the Bar Council is the representative body for barristers in England and Wales and also the approved regulator. Because the Legal Services Act 2007 requires regulation to be separate from representation, the Council's regulatory functions are carried out by the independent [Bar Standards Board](#) (BSB).

Complaints may be made to the BSB about any barrister, provided that barrister does not work for the person making the complaint. A person is to direct complaints to the Legal Ombudsman about a

¹ <https://www.sra.org.uk/consumers/sra-regulate/sra-regulate.page#principles> (Last accessed 19/10/2020)

² <https://www.sra.org.uk/consumers/problems/report-solicitor.page> (Last accessed 19/10/2020)

³ <https://www.sra.org.uk/consumers/problems/report-solicitor.page> (Last accessed 19/10/2020)

practising barrister who is, or was, representing them. It is expected that a complaint first be made directly to the barrister in question. The Legal Ombudsman, however, cannot deal with complaints about unregistered barristers. These complaints are to be made directly to the BSB.⁴ The case may be passed to the Professional Conduct Committee, which can issue barristers with a fine of up to £1000, impose conditions on their licence or authorisation to practice, reprimand them, advise them about their future conduct, or order them to complete CPD.⁵ If the barrister does not agree that they have broken any rules, or if the matter is considered to be of a more serious nature, the case will be passed to a disciplinary tribunal, arranged by the independent [Bar Tribunals and Adjudication Service \(BTAS\)](#). The tribunal makes the final decision and may decide to issue a fine of up to £50,000, order suspension for up to three years, or remove the ability to practise as a barrister permanently.⁶ Tribunal hearings ordinarily take place in public, being held in private only in the event that a specific order to that effect is made.⁷

2020 Update:

In October 2019, the BSB published a new edition of its Handbook, introducing new Enforcement Decision Regulations in order to modernise regulatory decision-making, informed by a 2018 consultation seeking views on Governance Reform.⁸ The changes included the establishment of the [Independent Decision-making Body \(IDB\)](#), which has replaced the Professional Conduct Committee, and the introduction of the role of an Independent Reviewer, who will handle requests concerning the review of individual decisions and will periodically audit cases.⁹

The current version of the BSB's Handbook (version 4.5) came into force on 1st September 2020.¹⁰

OTHER APPROVED REGULATORS

The [Legal Services Board](#) also oversees approved regulators for the professions of Chartered Legal Executives, Licensed Conveyancers, Patent Attorneys, Trade Mark Attorneys, Costs Lawyers, Notaries, and Chartered Accountants.¹¹

REVIEW

In 2018, the Centre for Ethics and Law in the University College London Faculty of Laws undertook to conduct an independent review to explore the regulatory framework for legal services in England & Wales.¹² The review was intended to build upon the issues raised by the Competition and Markets Authority (CMA)'s 2016 study, which recommended that the Government conduct a review of the

⁴ <https://www.barstandardsboard.org.uk/for-the-public/reporting-concerns.html> (Last accessed 22/10/2020) *Practising barristers are those in possession of valid practising certificates which enable them to provide legal services. Unregistered barristers do not hold such a certificate.*

⁵ <https://web.archive.org/web/20170707212514/https://www.barstandardsboard.org.uk/complaints-and-professional-conduct/making-a-complaint/what-will-happen-as-a-result-of-your-complaint/> (last accessed 22/10/2020)

⁶ Ibid.

⁷ <https://www.tbts.org.uk/hearings/forthcoming-hearings-calendar/> (Last accessed 22/10/2020)

⁸ <https://www.barstandardsboard.org.uk/resources/resource-library/bsb-seeks-views-on-modernising-its-regulatory-decision-making.html> (Last accessed 22/10/2020)

⁹ <https://www.barstandardsboard.org.uk/resources/resource-library/bsb-modernises-its-regulatory-decision-making-and-launches-new-website.html> (Last accessed 22/10/2020)

¹⁰ <https://www.barstandardsboard.org.uk/the-bsb-handbook.html> (Last accessed 22/10/2020)

¹¹ <https://www.legalservicesboard.org.uk/about-us/approved-regulators> (Last accessed 22/10/2020)

¹² https://www.ucl.ac.uk/laws/sites/laws/files/irlsr_tor_180822.pdf (Last accessed 22/10/2020)

regulatory framework.¹³ However, in its response in December 2017, the Government indicated that it was unable to commit to conducting such a review.¹⁴

UCL published an interim report to its review in September 2019 and focused on the accessibility of legal services, regulatory objectives, professional titles and lawtech. It concluded that the regulatory structure provides an incomplete and limited framework for legal services regulation that will struggle in the near-term and beyond to meet the demands and expectations placed on it.¹⁵

2020 Update:

In June 2020, UCL published the final report of the Independent Review of Legal Services Regulation. The report makes a total of 46 long-term recommendations and four short-term recommendations, covering the wide range of issues identified throughout the review. The report expects that the implementation of its recommendations would see a range of benefits; for example, a greater ability for consumers to check the registered status of their legal services provider, an increase in access, competition and innovation within regulated legal services, a regulatory framework that could apply even to providers of lawtech, and a clear separation of regulatory and representative functions with a single regulator for all legal services.¹⁶

LEGAL OMBUDSMAN

The [Legal Ombudsman](#) deals with complaints about poor service, while the regulators deal with failure to comply with professional standards.¹⁷ The distinction between the two is not always clear. If the complaint is considered to be about failure to comply with professional standards, or if it is considered that a complaint involves potential professional misconduct, the Ombudsman will bring the matter to the attention of the relevant Approved Regulator.¹⁸ A complaint must usually first be made to the lawyer or law firm directly, turning to the Ombudsman only if a satisfactory resolution cannot be reached.¹⁹

The Legal Ombudsman has the power to direct a lawyer or law firm to pay compensation (up to £50,000), refund or reduce fees, carry out any extra work required, apologise, and give back documents.²⁰ The outcomes of cases that require the Ombudsman's decision are published.²¹

2020 Update:

The current [Scheme Rules](#) for the Legal Ombudsman came into effect on 1st April 2019. The main purpose of the update to the Rules was in order to remove any reference to the regulation of claims management companies (CMCs) following the jurisdictional transfer to the [Financial Conduct Authority](#)

¹³ <https://assets.publishing.service.gov.uk/media/5887374d40f0b6593700001a/legal-services-market-study-final-report.pdf> (Last accessed 22/10/2020)

¹⁴ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/669507/Govt-Response-to-CMA-study.pdf (Last accessed 22/10/2020)

¹⁵ https://www.ucl.ac.uk/ethics-law/sites/ethics-law/files/irlsr_interim_report_1909_final_4.pdf (Last accessed 22/10/2020)

¹⁶ https://www.ucl.ac.uk/ethics-law/sites/ethics-law/files/irlsr_final_report_final_0.pdf (Last accessed 22/10/2020)

¹⁷ <https://web.archive.org/web/20170701113143/http://www.legalombudsman.org.uk/?faqs=what-is-poor-service> (Last accessed 22/10/2020)

¹⁸ <https://www.legalombudsman.org.uk/media/wtedexca/scheme-rules-2015.pdf> (Last accessed 22/10/2020) *Note that this version of the Scheme Rules has since been replaced, see footnote 22 for current version.*

¹⁹ <https://www.legalombudsman.org.uk/make-a-complaint/> (Last accessed 22/10/2020)

²⁰ <https://web.archive.org/web/20170618051042/http://www.legalombudsman.org.uk/?faqs=how-will-you-stay-in-touch> (Last accessed 22/10/2020)

²¹ <https://web.archive.org/web/20180202133018/http://www.legalombudsman.org.uk/raising-standards/data-and-decisions> (Last accessed 22/10/2020)

(FCA).²² In 2019, the Office for Legal Complaints decided to modify the way in which data is published by the Legal Ombudsman in order to increase transparency. Details of complaints and their remedies are to be published if the complaint is upheld by the Ombudsman.²³

SCOTLAND

LEGISLATION

The [Legal Services \(Scotland\) Act 2010](#) provides regulatory objectives and professional principles which will apply to regulated businesses and legal professionals, amongst other provisions.²⁴

REFORM

A review of the regulation of legal services in Scotland was carried out by Esther Roberton in 2018. The Law Society of Scotland made calls for substantial reform of the current system and the report directed its inquiry on the issues relating to economic contribution of legal services, complaints and redress as well as entity regulation. The report made 40 recommendations, the primary one being that a new regulatory model with a new single independent regulator, which is independent of both Government and those it regulates, be established.²⁵

2020 Update:

Further research on the legal services market in Scotland and the impact of the current regulatory framework on competition was initiated in June 2019 in response to the Roberton Review. The [Competition and Markets Authority](#) (CMA) conducted this research and published its findings in March 2020.²⁶

The CMA's research reveals that the current regulatory framework in Scotland has a number of potentially adverse effects on competition in the legal sector as well as on the transparency of services for consumers. The report makes a number of recommendations to both the Law Society of Scotland and the Scottish Government; for example, that existing price transparency guidance be reviewed, that legislation be amended to further liberalise and facilitate the implementation of alternative business structures (ABSs), and that, in the context of wider reform and in support of the Roberton Review, legislation be enacted at earliest opportunity to separate representative interests from the regulation of Scottish legal services.²⁷

The President of the Law Society of Scotland, John Mulholland, however, is reported as having disagreed on the need for such wider reform. He is quoted as having said that:

On the issue of wider reform, the CMA started its work with a clear policy position in favour of creating a new regulatory body. So it is no surprise to see it reiterating that position. However, at this of all times, we must avoid creating complicated new structures which add little benefit and only serve to

²² <https://www.legalombudsman.org.uk/information-centre/corporate-publications/scheme-rules/> (Last accessed 22/10/2020)

²³ <https://www.legalombudsman.org.uk/information-centre/data-centre/ombudsman-decision-data/> (Last accessed 22/10/2020)

²⁴ <https://www.lawscot.org.uk/members/membership-and-fees/licensed-legal-service-providers/> (Last accessed 22/10/2020)

²⁵ <https://www2.gov.scot/Resource/0054/00542583.pdf> (Last accessed 22/10/2020)

²⁶ https://assets.publishing.service.gov.uk/media/5e78cc9b86650c296f6eda63/SLS_report_final_version_PDF_---.pdf (Last accessed 22/10/2020)

²⁷ Ibid. pages 11-13

*build in extra costs for legal firms. All this would do is increase prices for consumers and undermine the competitiveness of the Scottish legal services market.*²⁸

LAW SOCIETY OF SCOTLAND AND THE SCOTTISH SOLICITORS' DISCIPLINE TRIBUNAL

The [Law Society of Scotland](#) is the professional body for Scottish solicitors, both regulating and representing them.²⁹ It sets the standards that must be met by solicitors practising in Scotland.³⁰ It is governed by a Council made up of both solicitor and non-solicitor members, and supported by a series of committees.³¹

The [Scottish Legal Complaints Commission](#) (SLCC) is to receive all complaints at first instance; however, if the complaint is in relation to professional conduct, it will be referred to the Law Society. The SLCC handles any complaints in relation to service quality.³²

The complaint will first be allocated to, and investigated by, a Reporter, whose written report of findings recommendations may be commented on by both parties before being submitted to one of the Professional Conduct Sub Committees. The Sub Committee, which is formed of an equal number of solicitors and non-solicitors, may decide to take no action, or that the conduct in question amounts to either unsatisfactory professional conduct or the more serious category of professional misconduct. .³³

Cases of unsatisfactory professional conduct are dealt with by the Law Society, who has the ability to impose sanctions such as censure, fines of up to £2,000, compensation payments up to £5,000, and orders to undergo training. In the more serious cases of professional misconduct, the Law Society has the power to prosecute the solicitor in question before the independent [Scottish Solicitors' Discipline Tribunal](#). The Tribunal may decide to take no action and, in addition to the sanctions available to the Law Society, has the power to restrict or suspend a solicitor's practising certificate or to strike a solicitor from the roll. In the event that the Tribunal believes that a complaint amounts only to unsatisfactory professional conduct, it will refer the complaint back to the Law Society.³⁴

Tribunal proceedings take place in public. However, either party may submit a motion for the hearing to be in private; if the Tribunal sees fit, it will call the parties to a procedural hearing to determine whether to grant the motion. .³⁵

FACULTY OF ADVOCATES

The [Faculty of Advocates](#) is the professional body for advocates in Scotland.

The Faculty deals with complaints relating to conduct. Complaints relating to service are dealt with by the SLCC. As with solicitors, complaints against advocates must first be directed to the SLCC, which

²⁸ <https://communities.lawsociety.org.uk/features/regulation-in-scotland-an-update/6000961.article> (Last accessed 22/10/2020)

²⁹ <https://www.lawscot.org.uk/media/10152/the-solicitors-scotland-act-1980-the-case-for-change-regulation-pa.pdf#page=10> (Last accessed 22/10/2020)

³⁰ <https://www.lawscot.org.uk/members/rules-and-guidance/rules-and-guidance/> (Last accessed 22/10/2020)

³¹ <https://www.lawscot.org.uk/about-us/who-we-are/> (Last accessed 22/10/2020)

³² <https://www.lawscot.org.uk/for-the-public/client-protection/complaints-against-solicitors/how-we-investigate-conduct-complaints/> (Last accessed 22/10/2020)

³³ Ibid.

³⁴ Ibid.

³⁵ <https://www.ssd.org.uk/media/25808/tribunal-rules-2008.pdf#page=28> (Last accessed 22/10/2020)

will then refer relevant complaints to the Faculty. Any complaints referred to the Faculty will be dealt with in accordance with the Disciplinary Rules.³⁶ According to the Faculty's website:

A conduct complaint which has been remitted to the Faculty will usually be dealt with, at least in the first instance, by a Complaints Committee, comprising an equal number of Advocates and lay members.

There is an appeal from decisions of a Complaints Committee to the Faculty of Advocates Disciplinary Tribunal. The members of the Disciplinary Tribunal include Advocates and lay members. The Tribunal is chaired by a retired senior judge.³⁷

2020 Update:

The Faculty's Disciplinary Rules were updated in 2019.³⁸ The update was part of a number of changes being made to the within the Faculty of Advocates in light of ongoing benchmarking audits and discussions with the SLCC. The main issues identified in the Rules were laid out in the 2016 benchmarking report. The latest benchmarking report update was published in 2019, shortly before the updated Rules were finalised, and included a number of further recommendations; for example, that disciplinary findings be published online and that a consumer-friendly set of Service Standards be finalised and published.³⁹

ASSOCIATION OF COMMERCIAL ATTORNEYS

Like the above relevant professional organisations, the Association is responsible for dealing with complaints relating to professional misconduct. There is unfortunately very little information on the Association's [website](#).

2020 Update:

The Association of Commercial Attorneys Scheme was originally approved in May 2009, and amended in 2013, to allow members of the Association to conduct construction litigation in Scottish courts.⁴⁰ The Scheme was revised in 2019, coming into force on 19th June 2019 as directed by the Minister for Community Safety.⁴¹ The revised Scheme was published in November 2019 and contains the updated Code of Practice and Complaints Procedure. The Association carries the responsibility for handling complaints about the conduct of Commercial Attorneys and is named as a 'Relevant Professional Organisation' under the [Legal Profession and Legal Aid \(Scotland\) Act 2007](#). Similarly to other Bodies, complaints are first to be made to the SLCC, which will then refer the complaint to the Association to be handled by the Complaints Board and subsequent Panels. Membership of the Board is determined by the Chairman of the Association but will consist of at least six people, up to half of whom may be Members of Fellows of the Association. Hearings are usually heard in public; however, the attorney against whom the complaint has been made, or the Head of the Complaints Board, may request that

³⁶ <http://www.advocates.org.uk/media/1916/disciplinaryrules2015.pdf> (Last accessed 22/10/2020)

Note that these Rules have since been updated, see footnote 41

³⁷ <https://web.archive.org/web/20170326191346/http://www.advocates.org.uk/making-a-complaint/how-to-make-a-complaint> (Last accessed 22/10/2020)

³⁸ <http://www.advocates.org.uk/media/3139/disciplinary-rules-june-2019.pdf> (Last accessed 22/10/2020)

³⁹ <https://www.scottishlegalcomplaints.org.uk/about-us/who-we-are/oversight-research/audits-trends-analysis/faculty-of-advocates-audits/> (Last accessed 22/10/2020)

⁴⁰ <https://www.scotcourts.gov.uk/docs/default-source/default-document-library/association-of-commercial-attorneys-guidance-following-the-coming-into-force-of-revised-scheme.pdf?sfvrsn=0> (Last accessed 22/10/2020)

⁴¹ <https://www.gov.scot/publications/association-commercial-attorneys-revised-scheme/pages/1/> (Last accessed 22/10/2020)

the hearing be held in private. The Panel is only to grant permission for hearings to be held in private in exceptional circumstances. The full complaints procedure is detailed in Section 11.0.⁴²

SCOTTISH LEGAL COMPLAINTS COMMISSION

The [SLCC](#) was established by the [Legal Professional and Legal Aid \(Scotland\) Act 2007](#). It is a neutral and independent body that handles all complaints about lawyers in Scotland. The SLCC investigates complaints about service or service and conduct where appropriate. Complaints about conduct only are referred to the relevant professional organisation.⁴³

Complaints should first be made directly to the service provider. It is a legal requirement that the service provider has had reasonable opportunity to deal with the complaint before it is investigated by the SLCC. If both parties are open to the process, the SLCC can offer a free mediation service and will appoint a mediator to aid the parties in reaching an amicable solution. However, if the complaint is not resolved through mediation, the case will be referred to a Case Investigator. It remains open for the case to be resolved directly between the parties at any stage. The findings of the investigation are normally set out in an Investigation Report or Letter. If both parties accept the findings, the complaint is closed. If either party does not accept the findings, the complaint is referred to Members of the Commission for determination.

Complaints are determined in Determination Committees of three Members, which always have a majority of lay Members (i.e. those who are not a practising solicitor or advocate in Scotland), but is chaired by a legal Member. An oral hearing may be held. The determination is final. Dissatisfied parties may appeal to the Court of Session.⁴⁴ Determination decisions are published.⁴⁵

The SLCC can ask the practitioner to adjust their fees, redo work, take other action, and pay compensation (up to £20,000); it may also report the practitioner to the relevant professional body if the issue relates to competence or conduct.⁴⁶

NORTHERN IRELAND

LEGISLATION

The 2006 report of the Legal Services Review Group recommended several changes to the operation of legal services, including a proposal to reform the complaints-handling system of the Law Society and Bar Council and a proposal to create the post of Legal Services Oversight Commissioner.⁴⁷ This led to a

⁴² <https://www.gov.scot/binaries/content/documents/govscot/publications/advice-and-guidance/2019/11/association-commercial-attorneys-revised-scheme/documents/association-commercial-attorneys-revised-scheme/govscot%3Adocument/association-commercial-attorneys-revised-scheme.pdf?forceDownload=true> (Last accessed 22/10/2020)

⁴³

https://web.archive.org/web/20170203152133/https://www.scottishlegalcomplaints.org.uk/media/57429/overview_of_the_complaints_process_for_service_conduct_2015.pdf (Last accessed 22/10/2020)

⁴⁴ Ibid.

⁴⁵ <https://web.archive.org/web/20161206102952/https://www.scottishlegalcomplaints.org.uk/making-a-complaint/complaint-examples/determination-decisions.aspx> (Last accessed 22/10/2020)

⁴⁶ <https://www.scottishlegalcomplaints.org.uk/about-us/rules-policies-and-publications/policies/> (Last accessed 22/10/2020)

⁴⁷ https://www.finance-ni.gov.uk/sites/default/files/publications/dfp/legal_services.pdf (Last accessed 22/10/2020)

consultation by the Department of Finance and Personnel on a draft Bill designed to give effect to some of these recommendations, particularly those relating to complaints processes.⁴⁸

The [Legal Complaints and Regulation Act \(Northern Ireland\) 2016](#) introduced new provisions to move away from a system where legal professionals handle their own complaints process to one where lay people lead the process.

PENDING REFORMS

The [Legal Complaints and Regulation Act \(Northern Ireland\) 2016](#) is not yet fully implemented but there will be significant changes in the process for complaints. The explanatory notes for this legislation indicate the intention as below:

- First step is in-house resolution (by the Solicitors firm concerned or by the early resolution body of the Bar);
- Failing satisfactory resolution in-house, the case will be referred to the relevant Complaints Committee which will formally consider the case;
- The establishment of Complaints Committees administered and maintained by professional bodies (these should have a majority of lay people and a layperson in the Chair);
- The Complaints Committees will have enhanced powers and the remit to scrutinise a broader range of cases.⁴⁹

The High Courts will be the court of appeal from the decisions of these Committees.

LEGAL SERVICES OVERSIGHT COMMISSIONER

This is a newly created public office established by the Legal Complaints and Regulation Act (Northern Ireland) 2016.⁵⁰ The Commissioner will oversee the introduction and assess the efficacy of a new system providing for complaints against members of the legal profession. The Commissioner will not have any direct involvement in the investigation of individual complaints.

The role of the Commissioner is intended to replace that of the Lay Observer but also to become more embracing in that it will relate to the handling of complaints against both solicitors and barristers.⁵¹

The Commissioner will serve for 3 years from 3rd April 2017. This post will overlap with the position of Lay Observer until the new structures for handling complaints are fully in place.

2020 Update:

At the time of writing, the 2016 Act is still not fully in force. Mrs Marian Cree, who was originally appointed as Commissioner upon the establishment of the role in February 2017, has been reappointed to the for a second term, meaning she will remain in office until April 2023. She will also continue to hold the role of Lay Observer until the new complaints structure is fully in place.⁵²

⁴⁸ <https://www.finance-ni.gov.uk/articles/review-legal-services-northern-ireland> (Last accessed 22/10/2020)

⁴⁹ <https://www.legislation.gov.uk/nia/2016/14/notes> (Last accessed 22/10/2020)

⁵⁰ <https://www.finance-ni.gov.uk/news/first-legal-services-oversight-commissioner-appointed> (Last accessed 22/10/2020)

⁵¹ <http://www.layobserverni.com/> (Last accessed 22/10/2020)

⁵² <https://www.northernireland.gov.uk/node/43250> (Last accessed 22/10/2020)

LAY OBSERVER

The Lay Observer is a publicly appointed lay official who oversees and comments on the Law Society of Northern Ireland's guidelines, processes and quality of service.⁵³ The Observer examines individual allegations concerning the Society, and produces a formal annual report to the Chief Justice of Northern Ireland, the Government and the Council of the Law Society detailing the complaints that have been received by the Society and how they have been dealt with.⁵⁴

The Lay Observer operates under the [Solicitors Order \(Northern Ireland\) Order 1976](#) and the [Solicitors \(Amendment\) \(Northern Ireland\) Order 1989](#).

LAW SOCIETY OF NORTHERN IRELAND

The [Law Society of Northern Ireland](#) is the representative body for solicitors in Northern Ireland. It is also the regulatory authority governing education, accounts, discipline and professional conduct of solicitors in Northern Ireland under the Solicitors (Northern Ireland) Order 1976. The Society operates via its Council which consists of 30 voluntary members, all of whom are practising solicitors.⁵⁵

The Law Society reviews complaints concerning cases of inadequate professional service, such as unreasonable delays in handling a case, failing to reply to correspondence, giving inaccurate information or failing to hand over papers. It also handles complaints in respect of professional misconduct, such as suspected dishonesty, mishandling a client's money or acting in a case that poses conflicts in respect of the client. Complaints are to be made directly with the solicitor in question at first instance and should be done so within six months of either the completion of business or the point at which concern arises about a matter. A response is to be issued within 28 days of receipt; however, if no response is received or if the response is not deemed satisfactory, the matter can be referred to the Society.⁵⁶

If the Law Society finds that there has been inadequate service, it can limit the solicitor's entitlement, direct the solicitor to complete the matter in a specified timescale, direct the solicitor to take action to rectify errors or omissions, or direct the solicitor to take any other action it thinks necessary in the interests of the complaining party. If the Law Society finds that there has been professional misconduct, the Society can prosecute the solicitor in question before the Solicitors' Disciplinary Tribunal.⁵⁷

SOLICITORS' DISCIPLINARY TRIBUNAL

The Solicitors' Disciplinary Tribunal is a statutory disciplinary body which is entirely independent of the Law Society of Northern Ireland.⁵⁸ The Tribunal is formed of 27 Members, some Solicitor Members, some Lay Members, all of whom are appointed by the Lord Chief Justice of Northern Ireland for a term of three years.⁵⁹

⁵³ <http://www.layobserverni.com/> (Last accessed 22/10/2020)

⁵⁴ <http://www.layobserverni.com/annual-reports.htm> (Last accessed 22/10/2020)

⁵⁵ <https://www.lawsoc-ni.org/about-us> (Last accessed 23/10/2020)

⁵⁶ https://www.lawsoc-ni.org/DatabaseDocs/nav_1298754_making_a_complaint_solicitor_english0120.pdf (Last accessed 23/10/2020)

⁵⁷ Ibid.

⁵⁸ <https://sdt-ni.org/> (Last accessed 23/10/2020)

⁵⁹ <https://sdt-ni.org/about/tribunal-members/> (Last accessed 23/10/2020)

The Tribunal adjudicates upon alleged breaches of rules and regulations which apply to solicitors and their firms, as well as upon alleged misconduct of those employed by solicitors.⁶⁰

In cases where a complaint is upheld against a solicitor, the Tribunal has the power under the 1976 Order to can make an Order providing for one or more of the following:

- a) *the dismissal of the application or complaint;*
- b) *the admonishing of the solicitor and, if they think fit, the imposing on him or her of a fine not exceeding £3,000 to be paid to and applied for the purposes of the Law Society;*
- c) *the restricting of the solicitor from practising on his or her own account, whether in partnership or otherwise;*
- d) *the removal of a restriction on the solicitor from practising on his or her own account, whether in partnership or otherwise;*
- e) *the suspension of the solicitor from practice;*
- f) *the termination of the solicitor's suspension from practice;*
- g) *the striking off the roll of the name of the solicitor;*
- h) *the replacement on the roll of the name of a former solicitor whose name has been struck off the roll;*
- i) *the termination of the solicitor's exclusion from legal aid work;*
- j) *the payment by any party to the inquiry of the costs of any other party to be measured by the Tribunal, or of a stated sum as a contribution towards such costs;*
- k) *the payment by any party to the inquiry of a sum to be measured by the Tribunal for the costs incurred by the Tribunal, or of a stated sum as a contribution towards such costs;*
- l) *the making by any party of such restitution or satisfaction to any aggrieved party as the Tribunal think fit.*⁶¹

Appeals against decisions taken by the Tribunal can be directed to the High Court of Justice in Northern Ireland.⁶²

BAR COUNCIL OF NORTHERN IRELAND

The [Bar Council of Northern Ireland](#) is an elected body responsible for the governance, regulation and representation of the barrister profession and consists of 20 practising barristers.⁶³

The Professional Conduct Committee of the Council regulates all practising barristers in Northern Ireland. It sets the Bar Code of Conduct, by which all barristers must abide, provides barristers with advice and guidance, monitors the services offered by barristers, and investigates complaints, taking disciplinary or other action where appropriate.⁶⁴

⁶⁰ <https://sdt-ni.org/about/> (Last accessed 23/10/2020)

⁶¹ Solicitors (Northern Ireland) Order 1976, Article 51; <https://sdt-ni.org/about/orders-of-the-tribunal/> (Last accessed 23/10/2020)

⁶² <https://sdt-ni.org/about/> (Last accessed 23/10/2020)

⁶³ <https://www.barofni.com/page/the-bar-of-northern-ireland> (Last accessed 23/10/2020)

⁶⁴ <http://www.barofni.com/page/regulation> (Last accessed 23/10/2020)

REPUBLIC OF IRELAND

LEGISLATION

Irish Solicitors are governed by the [Solicitors Act of 1954](#) (as amended by Solicitors Acts of 1960, 1994, 2002 and the Civil Law (Miscellaneous Provisions) Act 2008). Irish barristers are self-regulated, with no statutes or government-imposed controls on their conduct, discipline or education.⁶⁵

The [Legal Services Ombudsman Act 2009](#) established the office of Legal Services Ombudsman, the holder of which was to be known by that same name. However, no order was ever made to bring the Act into operation and the role, therefore, never filled.⁶⁶ The Act was then repealed in its entirety by the [Legal Services Regulation Act 2015](#).

The 2015 Act has introduced changes to the way in which solicitors and barristers are regulated in Ireland. It has established the Legal Services Regulatory Authority, an independent body responsible for regulating and overseeing the legal profession, and the Legal Practitioners Disciplinary Tribunal, which will hear complaints and disciplinary cases against solicitors and barristers (or 'legal practitioners'). Part 6 of the Act, which creates a new complaints and disciplinary system, has not yet come into operation.⁶⁷

2020 Update:

Part 6 of the Act came into operation on 7th October 2019 with the Legal Services Regulation Act 2015 (Commencement of Certain Provisions) (No. 2) Order 2019.⁶⁸

COMPLAINTS PROCESS: SOLICITORS (*PRIOR TO 7TH OCTOBER 2019*)

The Law Society of Ireland is the regulatory body for solicitors in Ireland. It is responsible for the education, regulation and representation of its members. It has powers under the 1954 Act (as amended) to investigate complaints against solicitors alleging inadequate professional services, excessive fees, and misconduct.⁶⁹

Complaints are first investigated by the Law Society's Complaints and Client Relations Section, which will first ask the accused solicitor to respond. If the Law Society is not satisfied by the accused solicitor's response to the complaint, it will continue to investigate the complaint.

If the complaint cannot be resolved, it may be referred to the Law Society's Complaints and Client Relations Committee, which will try to resolve the matter between the complainant and the solicitor. The Committee consists of both solicitors and a majority of law members. If there is no conciliation, the Committee will make a formal decision whether to uphold or reject the complaint, direct the solicitor to take certain steps or waive/refund fees, impose a reprimand, or direct the solicitor to pay compensation of up to €3,000.⁷⁰

⁶⁵ [https://uk.practicallaw.thomsonreuters.com/w-008-9662?transitionType=Default&contextData=\(sc.Default\)&firstPage=true&bhcp=1](https://uk.practicallaw.thomsonreuters.com/w-008-9662?transitionType=Default&contextData=(sc.Default)&firstPage=true&bhcp=1) (Last accessed 23/10/2020)

⁶⁶ http://www.irishstatutebook.ie/eli/isbc/2009_8.html (Last accessed 23/10/2020)

⁶⁷ http://www.irishstatutebook.ie/eli/isbc/2015_65.html (Last accessed 23/10/2020)

⁶⁸ <http://www.irishstatutebook.ie/eli/2019/si/502/made/en/pdf> (Last accessed 23/10/2020)

⁶⁹ <https://web.archive.org/web/20171114024451/https://www.lawsociety.ie/Public/Complaints-against-solicitors/> (Last accessed 23/10/2020)

⁷⁰ <https://www.lawsociety.ie/Public/Complaints-against-solicitors/Resolution-Procedure/> (Last accessed 23/10/2020)

The complaint may be referred to the [Solicitors Disciplinary Tribunal](#), an independent statutory tribunal appointed by the President of the High Court. The 1960 Act (as amended by the [1994 Act](#)) provides for the Disciplinary Tribunal, which is composed of 2 practising Irish solicitors of at least 10 years' standing, one of which is appointed Chairman, and one lay person. Complaints may also be made directly to the Disciplinary Tribunal without first being dealt with by the Law Society; complaints that have been rejected by the Law Society may also be directed to the Disciplinary Tribunal.⁷¹

If a solicitor is found, following an inquiry, to have committed professional misconduct, the Tribunal may by order do one or more of the following things:

- advise and admonish or censure the respondent solicitor;
- direct payment of a sum, not exceeding €15,000, by the respondent solicitor to the Compensation Fund;
- direct payment of a sum, not exceeding €15,000, by the respondent solicitor as restitution or part-restitution to any aggrieved party, without prejudice to any legal right of such party; and direct that the whole or part of the costs of the Society or of any person appearing before it, as taxed by a Taxing Master of the High Court in default of agreement, be paid by the respondent solicitor.⁷²

The solicitor, the Law Society or the applicant may appeal to the High Court and the High Court may rescind or vary the order, confirm the Tribunal's order, or impose a more stringent penalty on the solicitor (only in circumstances where the Society or the complainant has appealed).⁷³

Should the Tribunal report to the High Court, or an appeal be made to the High Court by the Society or the complainant, the Court may do one or more of the following things:

- a) strike the name of the solicitor off the roll;
- b) suspend the solicitor for a specified period;
- c) prohibit the solicitor from practising as a sole practitioner or partner for a period;
- d) restrict the solicitor practising in a particular area of work for a period;
- e) censure the solicitor, or censure and fine the solicitor;
- f) make an order as to costs; or
- g) direct the solicitor to make restitution to any aggrieved party.

The High Court may also make orders furnishing information regarding the solicitor's financial information. The High Court also has the power to remit a case to the Disciplinary Tribunal for further evidence and report.⁷⁴

Complaints about the way in which the Law Society has handled a complaint against a solicitor can be made by the Law Society's Independent Adjudicator. The Adjudicator cannot award compensation or consider any matters that have been dealt with by the Solicitors Disciplinary Tribunal.⁷⁵

COMPLAINTS PROCESS: BARRISTERS (PRIOR TO 7TH OCTOBER 2019)

The [Constitution of the General Council of the Bar of Ireland](#) provides that all members of the Bar shall be subject to the [Code of Conduct](#), [the Disciplinary Code](#), and to the decisions of the Tribunal, Appeals Board and Benchers. Furthermore, the Code of Conduct for the Bar of Ireland (in this part, "the Code") provides in its preamble that "the Code... applies to all Barristers whether called to the Bar before or

⁷¹ <https://web.archive.org/web/20171114125451/https://www.lawsociety.ie/Public/Complaints-against-solicitors/Disciplinary-Tribunal/> (Last accessed 23/10/2020)

⁷² <https://web.archive.org/web/20180305023538/http://www.distrib.ie:80/about-the-tribunal/> (Last accessed 23/10/2020)

⁷³ Ibid.

⁷⁴ http://www.distrib.ie/Solicitors_Disciplinary_Rules_2017.pdf (Last accessed 23/10/2020)

⁷⁵ <https://www.lawsociety.ie/Public/Complaints-against-solicitors/Independent-Adjudicator/> ; <http://www.independentadjudicator.ie/> (Both last accessed 23/10/2020)

since this day." A "barrister" is defined in the Code as a person "who is a subscribing member of the Law Library and is engaged (subject to the provisions hereof) in full time practice at the Bar".

The [Disciplinary Code for the Bar of Ireland](#) provides for the Barristers Professional Conduct Tribunal which is constituted by a quorum of 3 drawn from a pool of 4 practising barristers and 5 non-lawyers (there must be at least one barrister but a majority of non-lawyers). The Disciplinary Code also provides for the Appeals Board to which the Tribunal's decisions may be appealed.⁷⁶

The Tribunal (or the Appeals Board), should it uphold a complaint and find a barrister guilty of conduct breaching the Code or constituting a breach of proper professional standards, may impose one or a combination of the following sanctions:

- a) take no action other than record the complaint;
- b) advise the barrister as to future conduct;
- c) require the barrister to attend on a nominated person to be given advice as to future conduct;
- d) require the barrister to complete a professional development course at his or her expense, and to the satisfaction of the Tribunal;
- e) require the Bar Council to remove the barrister from the List of Pupil Masters;
- f) admonish the barrister;
- g) impose a fine;
- h) require the payment of fees/foregoing of fees by the barrister; or
- i) suspend the barrister from the Law Library.⁷⁷

The Tribunal cannot award compensation to the client.⁷⁸

The Tribunal or Appeals Board may also require the Bar Council to refer and present a complaint to the Disciplinary Committee of the Benchers of the [Honourable Society of King's Inns](#). The Disciplinary Committee Rules set out the procedure for complaints presented to the Disciplinary Committee of the Benchers, which is constituted by 3 judicial benchers. The Disciplinary Committee Rules set out that the Committee has the following powers of sanction should a complaint be upheld:

- a) admonish or censure the barrister;
- b) require the payment of fees/foregoing of fees by the barrister;
- c) impose a fine;
- d) order an apology;
- e) order professional development;
- f) advise the barrister as to future conduct;
- g) order the barrister to attend on a nominated person to be given advice as to future conduct; or
- h) recommend the Bar Council to remove the barrister from the List of Pupil Masters.

The Committee may also report to the Benchers that the barrister should be suspended or disbarred, and the barrister has further opportunity to be heard by the Benchers, the quorum of Benchers being not less than 12, and a two thirds majority being required for decisions. An order for suspension or disbarment shall be of no effect unless confirmed by the Benchers.⁷⁹

⁷⁶ <https://web.archive.org/web/20180328160519/https://www.lawlibrary.ie/Making-a-Complaint.aspx> (Last accessed 23/10/2020)

⁷⁷ <https://web.archive.org/web/20171218031146/https://www.lawlibrary.ie/Membership/Downloads/Disciplinary-Code-for-the-Bar-of-Ireland-July-2010.aspx> (Last accessed 23/10/2020)

⁷⁸ <https://web.archive.org/web/20180328160519/https://www.lawlibrary.ie/Making-a-Complaint.aspx> (Last accessed 23/10/2020)

⁷⁹ <https://www.kingsinns.ie/cmsfiles/RULES/RULES-December-2018.pdf> (Last accessed 23/10/2020)

PENDING REFORM OF COMPLAINTS PROCESS (*SINCE 7TH OCTOBER 2019*)

The new complaints process for solicitors will be very similar to the current system, in that it will still operate with a three-tier structure of a complaints committee, a disciplinary tribunal, and the High Court. The main difference will be that the Legal Services Regulatory Authority will deal with all complaints, and the Law Society must refer any complaints received to the Authority. Complaints against barristers as 'legal practitioners' will also be able to be made to the Legal Services Regulatory Authority.⁸⁰

An article published in the January 2017 issue of the Citizens Information Board's monthly journal 'Relate' offers an overview of the changes resulting from the provisions of the 2015 Act. In relation to the types of misconduct that will be covered, it explains that:

There will be an expanded definition of misconduct relating to legal practitioners once this part of the new Act is commenced.

An act or omission by a legal professional may be considered misconduct for a number of reasons, including where the act or omission:

- *Involves fraud or dishonesty*
- *Relates to the provision of legal services which were of an inadequate standard*
- *Otherwise than in the provision of legal services would suggest the person is unfit to practice as a legal professional*
- *Is likely to bring their profession into disrepute*
- *Is in breach of the 2015 Act or the Solicitors Acts 1954 to 2015*
- *Consists of the commission of an arrestable offence*
- *Consists of seeking an amount of costs for their services which is grossly excessive*⁸¹

THE LEGAL SERVICES REGULATORY AUTHORITY

In relation to the establishment and make-up of the Legal Services Regulatory Authority, the article explains that:

The Legal Services Regulatory Authority consists of 11 members, the majority of which are lay people. Two members are nominated for appointment by the Law Society. One member is appointed from persons nominated by each of the following:

- *Citizens Information Board*
- *Higher Education Authority*
- *Competition and Consumer Protection Commission*
- *Irish Human Rights and Equality Commission*
- *Institute of Legal Costs Accountants*
- *Consumers' Association of Ireland*
- *Bar Council*
- *Legal Aid Board*
- *Honourable Society of King's Inns*

One of the lay members is appointed by the Government to be the Authority's chairperson.

⁸⁰

<https://web.archive.org/web/20171114202113/https://www.lawsociety.ie/globalassets/documents/gazette/gazette-2016/april-16-gazette.pdf> - page 45 (Last accessed 23/10/2020)

⁸¹ https://www.citizensinformationboard.ie/downloads/relate/relate_2017_01.pdf (Last accessed 23/10/2020)

*Some of the functions currently held by professional bodies will be taken over by the Authority. For example, the Law Society of Ireland has been the professional body responsible for monitoring the conduct of solicitors. Among other functions, the Law Society will continue to issue practising certificates to solicitors, to regulate solicitors' professional indemnity insurance and to receive accountants' reports from firms of solicitors.*⁸²

2020 Update:

As a result of Part 6 of the 2015 Act coming into full effect, the complaints procedures as described under the heading for pending reform are applicable to all complaints after 7th October 2019. The Legal Services Regulatory Authority (LSRA) is now operationally the independent regulator with responsibility for the oversight of the legal profession in respect of solicitors as well as barristers.⁸³

Complaints can be made to the LSRA about inadequate service and excessive costs, as well as alleged misconduct. Whilst a time limit of 3 years exists for complaints in relation to the two former categories, complaints about the latter can be made any time. Complaints about alleged misconduct will be referred to a Complaints Committee for investigation and are not suitable for informal resolution. The Complaints Committee consists of 27 members. These members will sit in smaller Divisions, usually of three or five members in order to investigate individual complaints. Every Committee will be formed of a majority of lay people and will be chaired by a lay person.⁸⁴

The Complaints Committee may choose to refer a complaint to the Legal Practitioners Disciplinary Tribunal, if it feels that the alleged act is of a serious nature. The Tribunal has the ability to require attendance of witnesses and to compel production of documents from relevant parties. Decisions of the Tribunal can be appealed to the High Court.⁸⁵

JERSEY

LEGISLATION

The [Law Society of Jersey Law 2005](#) incorporated as a body corporate the Law Society of Jersey, which was originally founded in 1899. The Law Society is the governing body of lawyers who practise in the Channel Islands as Advocates and Solicitors of the Royal Court of Jersey.⁸⁶

One of the purposes of the 2005 Law is to provide for the disciplinary measures to be taken by the Law Society in the event that a complaint is received about the professional misconduct of legal practitioners or legal services bodies.⁸⁷

The 2005 Law is supported by the [Law Society of Jersey Bye-Laws 2007](#), which stipulates at bye-law 38 that ordinary members of the Law Society must observe the [Code of Conduct](#), with any breach of the Code amounting to professional misconduct.

Advocates and Solicitors have a right to practise law in Jersey pursuant to the [Advocates and Solicitors \(Jersey\) Law 1997](#), as amended. Only those lawyers who fulfil the criteria as provided for in the 1997 Law have a right to practise in Jersey.

⁸² Ibid.

⁸³ <https://www.lsr.ie/about-us/what-we-do/> (Last accessed 23/10/2020)

⁸⁴ <https://www.lsr.ie/wp-content/uploads/2020/06/LSRA-Complaints-Information-Guide.pdf> (Last accessed 23/10/2020)

⁸⁵ Ibid.

⁸⁶ <https://www.jerseylawsociety.je/about-us/about-us/> (Last accessed 22/10/2020)

⁸⁷ Part 3 of the Law Society of Jersey Law 2005

The 2005 Law also provides that it is the members of the Law Society who are advocates that are to elect one of their own number to be their head and to oversee the interests of the Bar in the role of the Bâtonnier.⁸⁸

COMPLAINTS PROCESS

Complainants should always try and resolve matters with the lawyer and their firm in the first instance.

It is a requirement of the Law Society of Jersey that all law firms maintain a complaints procedure. Complaints should be directed to the lawyer in question at first instance and referred to the Society's Chief Executive Officer only if a satisfactory outcome is not reached. Any complaints to the CEO should be made in writing on the relevant [Complaint Form](#) and completed in conjunction with the [Complaint Guidance Notes](#).

A complaint that concerns a potential breach of the Law Society's [Code of Conduct](#) will be considered by the President of the Law Society. If the complaint is deemed to be appropriate, it will be referred to the Disciplinary Panel, which is made up of both lawyers and non lawyers.⁸⁹

Under the provisions of the Law Society of Jersey Law 2005, when a complaint is referred to the the Disciplinary Panel, three members of the Panel will be selected to form a disciplinary committee to hear the complaint.⁹⁰ Proceedings of a disciplinary committee are heard in private.⁹¹ The disciplinary committee may choose to deal with a complaint in any of the following ways:

(a) by dismissing the complaint;

(b) if the committee is satisfied that the complaint is proved –

(i) and is satisfied that it can be dealt with by applying one of the penalties specified in paragraph (2), by so dealing with it,

(ii) but is not satisfied that any of the penalties specified in paragraph (2) are adequate, by referring it to the Attorney General; or

(c) by referring the complaint to the Attorney General without making a finding.⁹²

The penalties specified in paragraph 2 of article 23 are the issuance of a private rebuke or a public reprimand; imposition of a fine of up to £10,000; or imposition of a fine of up to £10,000 and issuance of a public reprimand. Decisions of the disciplinary committee are to be published on the Society's website without delay.⁹³ The standard of proof required in complaints proceedings under the 2005 law is that of the civil standard, on the balance of probabilities.⁹⁴

Appeals against the decision of a disciplinary committee can be made by the President of the Law Society, the Attorney General and the legal practitioner against whom the complaint has been made. Appeals are made to the Royal Court, which has the power to:

- *Confirm the decision of the disciplinary committee;*
- *Reverse a decision;*
- *Impose a greater sanction as set out in the following paragraph if it feels that the sanction*

⁸⁸ Law Society of Jersey Law 2005; Article 33

⁸⁹ <https://www.jerseylawsociety.je/public/complaints/> (Last accessed 23/10/2020)

⁹⁰ Law Society of Jersey Law 2005; Article 20

⁹¹ Ibid. Article 22

⁹² Ibid. Article 23(1)

⁹³ Ibid. Article 23(6)

⁹⁴ Ibid. Article 1(3)

- *imposed by the disciplinary committee was inadequate;*
- *Make any order it deems fit with regards to costs.*⁹⁵

GUERNSEY

LEGISLATION

The relevant legislation governing the regulation of legal services in Guernsey is the [Guernsey Bar \(Bailiwick of Guernsey\) Law 2007](#), along with the Bar Rules 2010 and [Rules of Professional Conduct](#), which came into effect on 21st January 2016.

COMPLAINTS PROCESS

Any person wishing to make a complaint against a member of the Guernsey Bar should first take steps to make such complaint directly to the Advocate in question. If the matter cannot be resolved, the complaint should then be raised with the Advocate's employer, be that the senior partner of the firm or, in the case of a Crown Advocate, HM Procureur. Only if the complaint is once again not satisfactorily resolved should the matter then be brought to the attention of the Bâtonnier of the Guernsey Bar.⁹⁶

Established under the Guernsey Bar (Bailiwick of Guernsey) Law, 2007, La Chambre de Discipline ("the Chambre") considers complaints against advocates in respect of professional misconduct.⁹⁷

The procedure that the Chambre is to follow in hearing complaints and the membership of the Chambre's panels is set out fully in Part II of the Guernsey Bar (Bailiwick of Guernsey) Law, 2007. In summary, upon receipt of a complaint, the President of the Chambre and the Bâtonnier will give notice to the Advocate in question and will decide whether the complaint should be referred to the Registrar. If it is considered that a complaint is vexatious, frivolous or not one of professional misconduct, it will not be referred to the Registrar. A complaint must be made within 6 months of the last of the events in question. Only in cases of alleged misconduct by breach of the Proceeds of Crime Regulations, or with the consent of the President of the Chambre, will a complaint be considered outside the 6-month period.^{98, 99}

The Registrar, upon receipt of a complaint from the Bâtonnier, will conduct investigations to decide if a prima facie case is disclosed. If so, the complaint will be referred to the Chambre and heard by three of its Members; one from each of the panel categories.¹⁰⁰ These categories are 'lay person', who is someone ordinarily resident in the Bailiwick and who has no previous connection to the legal profession in any jurisdiction; 'Advocate', who is an Advocate of at least 15 years' standing and not an officer of the Bar or member of the Bar Council; and 'senior lawyer', who is a practitioner or member of the judiciary, of at least 15 year's standing in any jurisdiction, but who is not an Advocate.¹⁰¹

The Chambre will issue a written decision on its findings and may deal with the complaint:

⁹⁵ [https://www.jerseylawsociety.je/files/1715/3314/5346/Complaints against members of the LSJ - Guidance Notes - 2018.pdf](https://www.jerseylawsociety.je/files/1715/3314/5346/Complaints%20against%20members%20of%20the%20LSJ%20-%20Guidance%20Notes%20-%202018.pdf) (Last accessed 23/10/2020)

⁹⁶ <http://www.guernseybar.com/about-the-bar/useful-info/complaints.aspx> (Last accessed 22/10/2020)

⁹⁷ <http://www.guernseybar.com/chambre-de-discipline.aspx> (Last accessed 22/10/2020)

⁹⁸ *The Proceeds of Crime Regulations are defined as any regulation made under s.49 or s.49A of the [Criminal Justice \(Proceeds of Crime\) \(Bailiwick of Guernsey\) Law, 1999](#) and any rules, instructions and guidance under that Law*

⁹⁹ The Guernsey Bar (Bailiwick of Guernsey) Law, 2007; s.21

¹⁰⁰ Ibid. s.22

¹⁰¹ Ibid. s.18

(a) by dismissing it, or

(b) if it is satisfied the complaint is proved and that it constitutes professional misconduct by the respondent, by disposing of it –

(i) by privately reprimanding him,

(ii) by publicly rebuking him,

(iii) by fining him in a sum not exceeding level 3 on the uniform scale,

(iv) by ordering that he completes such training of such nature and duration as the Chambre shall direct and to provide satisfactory proof of compliance with this order to the Chambre,

(v) by suspending him from practice as an Advocate for a period not exceeding 3 months, or

(vi) by referring the complaint to the Royal Court for consideration of –

(A) fining him in a sum exceeding level 3 on the uniform scale,

(B) suspending him for a period of 3 months or more, or

(C) disbaring him.¹⁰²

The Chambre may also order the respondent to make a financial contribution to the cost of the proceedings.¹⁰³ Appeals against decisions of the Chambre may be made to the Royal Court by the Registrar or the respondent only. Appeals are to be made within 28 days of the Chambre's decision.¹⁰⁴ Where the Chambre refers a complaint, the Royal Court will allow an Advocate of the Registrar's choosing to present the facts as found by the Chambre and will allow the respondent to be heard before deciding how to handle the complaint. The Court may deal with the complaint:

(a) by privately reprimanding the respondent,

(b) by publicly rebuking him,

(c) by fining him,

(d) by ordering him to complete such training of such nature and duration as the Royal Court shall direct and to provide satisfactory proof of compliance with that order to the Royal Court,

(e) by suspending him from practice as an Advocate, or subjecting his practice as an Advocate to conditions, for such period as may be specified by the Court, or

(f) by disbaring him.¹⁰⁵

Appeals against the decision of the Royal Court can be made to the Court of Appeal. Such an appeal is again subject to the 28-day time limit and can only be made by either the Registrar or the respondent. The Court of Appeal may then confirm or reverse the decision of the Royal Court and may deal with the complaint using any of the measures available to the Chamber and the Royal Court.¹⁰⁶

¹⁰² Ibid. s.27(1)

¹⁰³ Ibid. s.27(2)

¹⁰⁴ Ibid. s.28

¹⁰⁵ Ibid. s.29

¹⁰⁶ Ibid. s.30

Complaints are heard by the Chambre in private; however, it may hear a complaint in public upon the request of the respondent if it is satisfied that doing so would be in the interests of justice.¹⁰⁷ The standard of proof for proceedings of the Chambre is the civil standard when deciding on instances of professional misconduct as a result of breaching the Proceeds of Crime Regulations. However, where the misconduct in question has occurred by any other means, it is the criminal standard of proof that is to be applied. This contrasts with the position in Jersey, where the burden is the civil standard.

The Chambre is similar to the Law Society of Jersey's disciplinary committee and the Solicitors Regulation Authority of England and Wales in that it handles complaints for professional misconduct at first instance. However, the Chambre is distinguished by its power to suspend an Advocate for up to 3 months.

FURTHER READING

'Complaints against solicitors and other lawyers', House of Commons Briefing Paper 03762, dated 4th May 2017 (updated 24th November 2020):

<http://researchbriefings.files.parliament.uk/documents/SN03762/SN03762.pdf>

Response to the Law Officers Department and members of the Law Society of Jersey revised disciplinary process, presented to the State on 3rd February 2014 by the HM Attorney General:

<http://www.statesassembly.gov.je/AssemblyPropositions/2013/P.152-2013Com.pdf>

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¹⁰⁷ Ibid. s.25