

Executive Summary

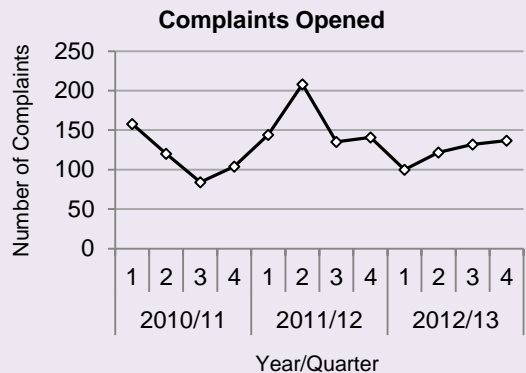
0.1 The Professional Conduct Department (PCD) works under the authority of the Professional Conduct Committee (PCC). We investigate complaints and, where appropriate, assist the PCC in taking action against barristers who have breached the Code of Conduct. This is the annual report for the PCD providing a summary of our activities and those of the PCC for the period 1 April 2012 to 31 March 2013.

0.2 Set out below is a summary of the main statistical findings in relation to each section of the report:

How many new complaints did we receive?

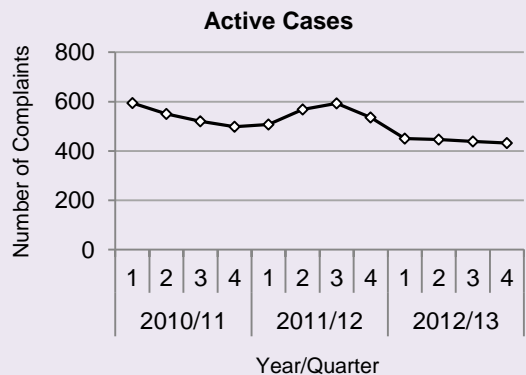
- a. We received 316 complaints from external sources – a figure consistent with 2011/12. The number of complaints from litigants in person remained at the high level seen in the previous year and the most common allegations made in complaints about barristers were those classified as “discreditable/dishonest conduct” and “misleading the court”.
- b. We raised 175 internal complaints against barristers and raised an additional 272 administrative warnings and fines – mostly in relation to barristers failing to comply with the CPD requirements of the profession. This was a significant decrease in the number of internal complaints opened – due to a considerable decrease in the number of practising certificate breaches referred to the PCD – but the highest number of annual *Warnings & Fines* cases raised since the introduction of the system in 2009.

New complaints



External complaints	316
Internal complaints	175

Overall caseload



External complaints	507
Internal complaints	343

How many complaints did we work on during the quarter?

- c. We had 850 individual complaints ongoing within the department during the year. Throughput of cases was steady and with the exception of the fourth quarter, we closed more complaints than we opened in each quarter. Over the course of the year we referred 116 cases to disciplinary action and closed a total of 550 complaints.
- d. For external complaints, 65% of cases were closed without investigation; 27% were closed after investigation and 8% were closed after a referral to disciplinary action. For internal complaints – which are only raised when supported by evidence of a breach of the Code of Conduct – 42% were closed after a referral to disciplinary action.
- e. Findings of professional misconduct were made in a total of 87 cases and in 49% of these cases the barrister was fined. Eleven barristers were disbarred during the course of the year.

How quickly did we deal with complaints?

f. 2012/13 was the first year where we set Key Performance Indicators (KPIs) against which we benchmarked our performance.

g. **Initial Assessment:** We completed our initial assessment of 47% of external complaints within one month. In the first and second quarters we concentrated on embedding the new KPI into our working practises and managing our outstanding caseload, which to some extent had a negative impact on our performance figures. In the second half of the year our performance level increased and 57% of cases were concluded or referred to investigation within one month.

h. **Investigation:** Where we investigated complaints, we concluded or referred to disciplinary action 62% of complaints within six months. When analysed separately, 80% of internal complaints were within the six month service standard compared with 33% of external complaints.

i. Throughout 2012/13 we reported on our performance against these KPIs and collected data for each stage of our complaints handling processes. We found both areas where we can improve but also some additional factors – such as our need to request expert advice or make further enquiries – that were not taken into account when the service standards were set. Far from being “exceptional” circumstances as we originally thought, these factors were found to be both common and fundamental to our ability to make fair and informed decisions on complaints. As our 2012/13 KPIs do not truly reflect the timescales that barristers and complainants can expect for the handling of their complaints, our performance indicators for 2013/14 have been adjusted accordingly.

Performance against KPIs	
The percentage of complaints concluded or referred to investigation within 1 month	47.2%
The percentage of complaints concluded or referred to disciplinary action within 6 months following investigation	62.2%

Looking forward

- j. In 2012, the BSB embarked on a significant and ambitious three year change programme designed to ensure that our regulatory approach accords with current good practice and meets the regulatory objectives set out in the Legal Services Act 2007. The programme also incorporates the work required to meet the Regulatory Standards Framework set by the Legal Services Board.
- k. The PCD and PCC, as part of the change programme, are currently working on making changes and additions to the enforcement system to build the necessary infrastructure to support effective enforcement of the new Handbook – due to replace the current Code of Conduct in January 2014. This work will continue throughout the next year.

What risks to the public have been identified?

- l. At this stage we do not consider that the data collected in 2012/13 identifies any new issues that would present a risk to the public. However, the number of complaints we received from litigants in person remained at the high level seen in the previous year.

Independent Observer

- m. In her Annual Report to the Governance, Risk and Audit Committee (covering the period June 2012 to May 2013) the Independent Observer gave the work of the PCD and PCC a positive assessment commenting that:
 - Potential breaches of the Code are being identified and appropriately pursued;
 - Decisions are fair and consistent;
 - Communications are clear;
 - Decisions are well reasoned;
 - Staff are polite and professional in their written contacts