

*These notes relate to the Legal Profession and Legal Aid
(Scotland) Act (asp 5) which received Royal Assent on 19 January
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LEGAL PROFESSION AND LEGAL AID (SCOTLAND) ACT (ASP 5) WHICH RECEIVED ROYAL ASSENT ON 19 JANUARY 2007

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2 – Conduct Complaints: Other Matters

Section 53: Unsatisfactory professional conduct: solicitors

Section 54A of the 1980 Act

118. New section 54A provides a right of appeal to the Court of Session for a solicitor or complainer in respect of decisions made by the Tribunal in unsatisfactory professional conduct cases.
119. A solicitor is provided with a right to appeal against decisions by the Tribunal under new section 53ZB(1), (2), (3) or (4). So for example, a solicitor may appeal against a Tribunal decision confirming the Council's upholding of the complaint or the Tribunal's decision itself to uphold the complaint (where the Council did not uphold it); a Tribunal decision confirming or varying a Council direction, or itself imposing a direction, as to education or training, a fine or payment of compensation.
120. A complainer has the right to appeal against the following decisions by the Tribunal – a decision quashing the Council's determination to uphold the complaint or confirming the Council's decision not to uphold the complaint; quashing the Council's direction that the solicitor pay compensation or varying the amount the Council directed to be paid; confirming the Council's decision not to direct payment of compensation; itself directing or not directing the solicitor to pay compensation (where the Council did not direct payment).
121. Having heard an appeal by the solicitor or complainer, the court is empowered by new section 54A to give such directions in the matter as it thinks fit, including directions as to the expenses of the court proceedings or any order by the Tribunal relating to expenses. The decision of the court is final.