

These notes refer to the Legal Complaints and Regulation Act (Northern Ireland) 2016 (c.14) which received Royal Assent on 11th April 2016

Legal Complaints and Regulation Act (Northern Ireland) 2016

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Section 38: Determination of complaints

Section 38 makes provision for the Solicitors Complaints Committee powers in making a determination.

Subsection (1) allows the Committee to uphold a complaint, or part of it, or dismiss a complaint, or part of it.

Subsection (2) sets out directions which the Committee may make in a determination, namely that the solicitor make an apology to the complainant, or that the solicitor's costs for the services to which the complaint relates are limited to a specified amount (if any) and further, under *subsection (3)*, any other action be taken, such as a refund, which may be necessary to give effect to this. Where an apology is directed, the making of the apology will not, of itself, amount to an admission of negligence by the solicitor for the purpose of any civil proceedings. Additional directions that can be made by the committee are that the solicitor pay compensation for inconvenience, distress or loss that is not judged to fall into the category of negligence, the solicitor pay compensation for any loss suffered as a result of, in the opinion of the committee, the solicitor's negligence, that the solicitor secure rectification (at their own expense) of any specified error, omission or other deficiency in connection with the matter under complaint, that the solicitor takes such steps to complete the matter within a reasonable time, or that the solicitor, at their own expense, take such other action in the interests of the complainant as the direction may specify. In all the above matters, reference to a solicitor can also include his or her firm.

Subsection (4) allows for any amount payable pursuant to a determination to bear interest. *Subsections (5) and (6)* relate to the limitation of fees where the costs of a solicitor are subject to taxation.

Subsection (7) sets out the maximum amount of compensation the Committee may award in respect of any loss suffered by the complainant as a result of negligence at £5000. *Subsection (8)* sets the maximum amount of compensation payable for inconvenience and distress at £5000.

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Subsection (9) provides that the failure of a solicitor to comply with a direction made by the Committee is a disciplinary matter and can be complained about to the Solicitors' Disciplinary Tribunal.