2016 CHAPTER 14

PART 3 N.I.

COMPLAINTS AGAINST SOLICITORS

PROSPECTIVE

Determinations by Solicitors Complaints Committee

Determination of complaints N.I.

38.—(1) The Solicitors Complaints Committee may determine a complaint made in accordance with the provisions of this Part by—

(a) upholding the complaint (or part of the complaint); or

(b) dismissing the complaint (or part of the complaint).

(2) A determination by the Committee upholding a complaint may contain one or more of the following—

(a) a direction that the respondent make an apology (which shall not, of itself, amount to an admission of negligence for the purpose of any civil proceedings) to the complainant;

(b) a direction that—

(i) the costs to which the respondent is entitled in respect of the services to which the complaint relates ("the costs") are limited to such amount (if any) as may be specified in the direction, and

(ii) the respondent comply, or secure compliance, with such one or more of the requirements falling within subsection (3) as appear to the

Committee to be necessary in order for effect to be given to the direction under sub-paragraph (i);

(c) a direction that the respondent pay compensation to the complainant of such amount as is specified in the direction in respect of any loss which, in the opinion of the Committee, has been suffered by the complainant as a result of the respondent's negligence;

(d) a direction that the respondent pay compensation to the complainant of such amount as is specified in the direction in respect of any loss (other than such loss as is mentioned in paragraph (c)), inconvenience or distress which has been caused to the complainant as a result of any matter connected with the complaint;

(e) a direction that the respondent secure the rectification, at the expense of the respondent, of any such error, omission or other deficiency arising in connection with the matter in question as the direction may specify;

(f) a direction that the respondent take such steps for the completion of the matter in question within such reasonable time as the direction may specify;

(g) a direction that the respondent take, at the expense of the respondent, such other action in the interests of the complainant as the direction may specify.

(3) The requirements referred to in subsection (2)(b)(ii) are—

(a) that the whole or part of any amount already paid by or on behalf of the complainant in respect of the costs be refunded;

(b) that the whole or part of the costs be remitted;

(c) that the right to recover the costs be waived, whether wholly or to any specified extent.

(4) Where—

(a) a direction is made under subsection (2)(b) which requires that the whole or part of any amount already paid by or on behalf of the complainant in respect of the costs be refunded; or

(b) a direction is made under subsection (2)(c) or (d),

the direction may also provide for the amount payable under the direction to carry interest from a time specified in or determined in accordance with the direction, at the rate specified in or determined in accordance with rules made under section 36(1).

(5) Where the Committee has given a direction under subsection (2)(b) in relation to the costs referred to in that paragraph, then—

(a) for the purposes of any taxation of a bill covering those costs the amount charged by the bill in respect of those costs shall be deemed to be limited to the amount (if any) specified in the Committee's direction; and

(b) where a bill covering those costs has not been taxed in accordance with paragraph (a), the complainant shall, for the purposes of the recovery of those costs (by whatever means) and notwithstanding any statutory provision or agreement, be deemed to be liable to pay in respect of those costs only the amount (if any) specified in the Committee's direction.

(6) Where a bill covering those costs has been taxed in accordance with subsection (5)(a), the Committee's direction under subsection (2)(b) shall, so far as relating to those costs, cease to have effect.

(7) The amount of any compensation specified in a direction under subsection (2)(c) must not exceed £5,000.

(8) The amount of any compensation specified in a direction under subsection (2)(d) must not exceed £5,000.

(9) If a respondent who is a solicitor fails to comply with a direction given under this section which has taken effect, any person may make a complaint in respect of that failure to the Solicitors Disciplinary Tribunal.

(10) The powers conferred on the Committee by subsection (2)(b) shall be exercisable in relation to a person notwithstanding that the person's name has been removed from or struck off the roll of solicitors kept by the Law Society under Article 8 of the 1976 Order, and references to a respondent in—

(a) the provisions of this section so far as they relate to the exercise of those powers; and

(b) if a complaint is made to the Solicitors Disciplinary Tribunal under subsection (9), Articles 46 and 51 of the 1976 Order,

shall be construed accordingly.

Alteration of compensation limits **N.I.**

39.—(1) The Department may by order subject to negative resolution amend subsection (7) or (8) of section 38 in accordance with a recommendation made by an interested body under subsection (2).

(2) An interested body may recommend to the Department that subsection (7) or (8) of section 38 should be amended so as to substitute the amount specified in the recommendation for the amount for the time being specified in subsection (7) or, as the case may be, (8).

(3) An interested body must, if requested to do so by the Department, consider whether or not it is appropriate to make a recommendation under subsection (2).

(4) An interested body must, before making a recommendation under subsection (2)—

(a) publish a draft of the proposed recommendation;

(b) invite representations regarding the proposed recommendation; and

(c) consider any such representations which are made.

(5) Where the Department receives a recommendation under subsection (2), the Department must consider whether to follow the recommendation.

(6) If the Department decides not to follow the recommendation, the Department must publish a notice to that effect which includes the Department's reasons for the decision.

(7) In this section “interested body” means—

(a) the Solicitors Complaints Committee; or

(b) the Legal Services Oversight Commissioner.

Status:
This version of this cross heading contains provisions that are prospective.

Changes to legislation:
There are currently no known outstanding effects for the Legal Complaints and Regulation Act (Northern Ireland) 2016, Cross Heading: Determinations by Solicitors Complaints Committee.