



Monthly Performance Report – June 2009

This data is extracted from the Queensland legal profession regulatory database co-hosted by the Legal Services Commission and the Queensland Law Society. It reports the Commission's performance in relation to:

- complaints and discipline (under Chapter 4 of the *Legal Profession Act 2007*);
- ILP compliance audits (under Part 2.7, Chapter 2 of the Act); and
- related projects, research and community and continuing legal education activities.

Commissioner's Commentary for the Month of June 2009

The Commission's data base and statistical reporting are premised on a conceptual framework which defines the key terms that organise the Commission's core workload into 'matter types'. The matter types give us a means of counting what we do and comparing our performance with our past and future performance and (to the extent that we count what we do similarly), potentially to compare our performance with the performance of our counterpart agencies in other jurisdictions. The conceptual framework is set out in the Glossary which is included at the end of the report.

1. INQUIRIES

- We received and dealt with 116 inquiries during the month and the QLS received and dealt with a further 196, making a total for the month of 312 and for the year to date of 4368.
- The QLS also received and dealt with 239 ethical inquiries from practitioners, a total for the year to date of 2737.

2. COMPLAINTS

- We received 89 new complaints during the month from members of the public, making a total over the year to date of 1066 – a monthly average of 88.83 compared to the monthly average last year of 94, and the year before that of 92.
- We initiated 3 new investigation matters, a total for the year to date of 79 – a monthly average of 6.58 compared to the monthly average last year of 11.25 and the year before that of 17.41.
- Hence we opened 92 new complaints and investigation matters during the month and we have opened 1145 over the year to date - a monthly average of 95.42. The 79 new investigation matters comprise 6.9% of the 1145 new complaints and investigation matters we have opened over the year to date.
- We summarily dismissed 410, or 39.81% of the new complaints we have assessed since 1 July. We assessed 392 of the total number of 443 complaints we have summarily dismissed over the year to date within 1 month of receipt, in a median time-frame overall of 14 days compared to 11 days last year and 14 days in the year before that.
- We referred 1 consumer disputes to the QLS for mediation during the month, making a total for the year to date of 6 - or 1.05% of all new consumer disputes we have assigned for mediation over the year to date.
- We referred 21 new conduct complaints and 1 new investigation matter to the QLS for investigation during the month, making totals over the year to date of 273 and 14 respectively - or 46.99% of all new conduct complaints and 18.42% of all new investigation matters we have assigned for investigation.
- We referred 0 new conduct complaint and 0 new investigation matter to the BAQ for investigation during the month, making totals over the year to date of 18 and 0 - or 3.1% of all new conduct complaints and 0.0% of all new investigation matters we have assigned for investigation.
- The QLS returned 46 conduct matters (that is to say, conduct complaints and investigation matters) after investigation for review during the month with recommendations as to how they should be finalised. The LSC came to a different view in 2 of these matters as follows.

Matter No.	QLS Recommendation	LSC Outcome
71004998	No Public Interest	No reasonable likelihood
71000233	No reasonable likelihood	No Public Interest

- The BAQ returned 2 **conduct matters** after investigation for review during the month with recommendations as to how they should be finalised. The LSC came to a different view in 0 of these matters.

- We finalised 127 new complaints and investigation matters during the month, making a total over the year to date of 1136.
- We (in this instance, the LSC and the QLS combined) finalised 9 consumer disputes during the month, making a total for the year to date of 88 - 87 of them within 2 months of receipt, in a median time-frame overall of 21 days compared to 17 days last year and 15 days in the year before that.
- The number of consumer disputes on hand has changed from 4 at the beginning of the year (and 6 at the beginning of the month) to 5 at the end of the month.
- We finalised 70 conduct matters during the month, making a total for the year to date of 605 – 350 of them within 6 months of receipt, in a median time-frame overall of 175 days compared to 131 days last year and 119 days in the year before that.
- We finalised 65.63% of the conduct complaints we have closed over the year to date on the basis that there was no reasonable likelihood of an adverse finding by a disciplinary body and 18.16% on the basis that, while there might have been a reasonable likelihood of an adverse finding, there was no public interest in initiating disciplinary proceedings. We finalised 5.08% with a decision to initiate disciplinary proceedings.
- We finalised 28.57% of the non-PIPA and non-ILP related investigation matters we have closed over the year to date on the basis that there was no reasonable likelihood of an adverse finding by a disciplinary body and 47.62% on the basis that, while there might have been a reasonable likelihood of an adverse finding, there was no public interest in initiating disciplinary proceedings. We finalised 10.71% with a decision to initiate disciplinary proceedings.
- We finalised 28.57% of the PIPA related investigation matters we have closed over the year to date on the basis that there was no reasonable likelihood of an adverse finding by a disciplinary body and 71.43% on the basis that, while there might have been a reasonable likelihood of an adverse finding, there was no public interest in initiating disciplinary proceedings.
- The number of conduct matters on hand has changed from 387 at the beginning of the year (and 412 at the beginning of the month) to 404 at the end of the month – and of these, 284 are under investigation; 60 have been investigated and are under review with a view to closure; 14 have been reviewed and are awaiting decision; 8 have been reviewed and are under further consideration with a view to possible prosecution; and 38 are being held in abeyance.
- The total number of complaints and investigation matters on hand has changed from 449 at the beginning of the year (and 493 at the beginning of the month) to 458 at the end of the month.

3. ILP COMPLIANCE AUDITS

- The QLS advised the Commission that 1 corporations had notified it of their intention to engage in legal practice in Queensland and that 3 ceased to practice, bringing the total number of ILPs to 171 or 12.23% of all Queensland law firms.
- The QLS advised the Commission that 0 practitioners had notified it of their intention to provide legal services in Queensland in a multi-disciplinary partnership, and that 0 ceased to practice, bringing the total number of MDPs to 0 or 0.14% of all Queensland law firms.
- We initiated 6 ILP self assessment audits during the month, making a total for the year to date of 74. We have finalised 90 self assessment audits over the year to date and have 38 on hand.
- We initiated 0 web-based surveys during the month, making a total over the year to date of 50. We have finalised 43 web-based surveys over the year to date and had 7 on hand at the end of the month.

- We initiated 0 on-site reviews during the month, making a total over the year to date of 0. We have finalised 1 on-site review over the year to date and had 1 on hand at the end of the month.

4. DISCIPLINARY AND OTHER REGULATORY ACTION

- We initiated 2 new prosecution matters during the month, making a total over the year to date of 21. We have filed 16 discipline applications with the Legal Practice Tribunal and 6 with the Legal Practice Committee over the year to date.
- The Court of Appeal has heard and finally decided 3 discipline applications over the year to date, the Legal Practice Tribunal has heard and finally decided 21, the Legal Practice Committee has heard and finally decided 6 and 4 have been discontinued – a total of 34 matters have been finalised over the year to date.
- We had 31 prosecution matters in train at the end of the month, 18 filed in the Tribunal (compared with 17 at the beginning of the year), 5 filed in the Committee (compared with 7 at the beginning of the year), 2 filed in the courts (compared to 0 at the beginning of the year) and 7 waiting to be filed (compared to 10 at the beginning of the year).

5. OTHER HIGHLIGHTS

- The Commissioner and staff of the Commission completed 3 speaking engagements during the month – 1 at a practice management course conducted by the QLS; 1 at a CPD session on ethics conducted by the QLS; and 1 at a CPD session on ethics conducted by the BAQ. We completed 32 speaking engagements during the year.
- Further, the Commission:
 - commenced detailed planning for a symposium on supervision that we will co-host with Griffith Law School in August (the symposium in the series under the title Lawyers, Clients and the Business of Law), and commenced planning an interactive scenario on supervision that will draw upon the symposium materials and discussion;
 - commenced planning a detailed statistical analysis with researchers at Melbourne and Griffith University Law Schools of the results of the Workplace Culture Check survey we conducted earlier in the year with the cooperation of 15 volunteer law firms (and almost 500 of their legal and other staff) – the first live test of our web-based Ethics Checks for Law Firms. We published the 'basic' results some months ago now.
 - ran another Ethics Check for Law Firms – the Complaints Management Systems Check – as a form of compliance audit of 31 incorporated legal practices. We will post the results on our website early in July.
 - contacted by email or mail (enclosing a stamped self-addressed envelope) all the people who made inquiries of the Commission over the May-June period seeking their confidential and anonymous feedback, and began compiling reports of the feedback we have received over 2008-09 from not only inquirers but also complainants, respondents and our other stakeholders. We will publish those reports on our website during July.
 - prepared an interactive 'website comparer' complete with pop up boxes that will enable personal injury law firms to view two dummy law firm websites – one of them PIPA compliant and the other not – together with commentary which highlights the features on those websites which make them compliant or non-compliant. The website comparer will go live on the Commission's website in early July together with the new versions of our Guidelines for Advertising Personal Injury Services and Guidelines for Advertising Personal Injury Services on the Internet; and
 - went live with a test version of LPPortal – a portal that will go live in its first version in September and that will give law firms, lawyers, related organisations (such as trust account auditors and university law schools) authenticated, one-stop shop access to regulatory 'products' which both 'pull' information in (eg. on-line forms and statutory notices) and 'push it out' (eg. de-identified complaints, compliance audit and other risk data). It will also give members of the public access to relevant regulatory data.

Summary of Matters – June 2009

<u>Inquiries</u>	LSC	QLS	Month Total	YTD Total
client inquiries handled during period	116	196	312	4368
ethical inquiries from practitioners handled during period	N/A	239	239	2737
<u>Complaints/Investigation Matters</u>	Month	YTD	Avg/Mth YTD	Avg/Mth (Last Yr)
matters on hand at start of period	493	449	N/A	N/A
plus matters opened	92	1145	95.42	104.83
includes complaints received from public	89	1066	88.83	93.58
includes investigation matters opened (ILP)	0	0	0.0	0.0
includes investigation matters opened (PIPA)	0	17	1.42	5.67
includes investigation matters opened (all other)	3	62	5.17	5.58
less summary dismissals	48	443	36.92	37
less consumer disputes closed	9	88	7.33	8.5
less conduct matters closed	70	605	50.42	61.67
(total complaints/investigation matters closed)	127	1136	94.67	107.17
(calculated totals)	458	458		
total on hand	458	458		
<u>ILP Compliance Audits</u>	Month	YTD	Avg/Mth YTD	Avg/Mth (Last Yr)
matters on hand at start of period				
self assessment audits	47	54		
web-based surveys	50	0		
on-site reviews	1	2		
total	98	56		
plus matters opened				
self assessment audits	6	74	6.17	8.8
web-based surveys	0	50	4.17	0
on-site reviews	0	0	0.0	0.2
total	6	124	10.34	9
less matters closed				
self assessment audits	15	90	7.5	5
web-based surveys	43	43	3.58	0
on-site reviews	0	1	0.08	0
total	58	134	11.16	5
matters on hand at end of period				
self assessment audits	38	38		
web-based surveys	7	7		
on-site reviews	1	1		
total	46	46		

Summary of Matters - June 2009

<u>Prosecutions</u>	<i>Month</i>	<i>YTD</i>	<i>Avg/Mth YTD</i>	<i>Avg/Mth (Last Yr)</i>
prosecutions on hand at start of period	32	44	N/A	N/A
plus matters opened	2	21	1.75	2.42
less matters closed	3	34	2.83	1.58
(calculated totals)	31	31		
total on hand	31	31		

Assessment Summary YTD – Complaints Received from Public

	<i>Total</i>	<i>%</i>
new complaints allocated for assessment since 1 July	1066	
of these, currently awaiting assessment as at: 8/07/2009	36	3.38
number of new matters assessed since 1 July	1030	96.62
	Total	%YTD
of the number of new complaints assessed since 1 July:		
no. summarily dismissed	410	39.81
no. assessed to be consumer disputes	90	8.74
no. assessed to be conduct matters	530	51.46
total	1030	

Online Requests Summary

	<i>Month</i>	<i>YTD (commencing March 2009)</i>
complaints received this month	10	44
inquiries received this month	14	41
total received	24	85

Summary of Matters – June 2009

Timeliness Summary – All Complaints/Investigation Matters Closed YTD

Matter Type	Matters Completed	Timeband	Actual %	Cumulative %	Target %	Median Days
Conduct Matters	350	6 months	57.85	57.85	75	175
	195	18 months	32.23	90.08	100	
	60	> 18 months	9.92	100	0	
Consumer Disputes	87	2 months	98.86	98.86	90	21.5
	1	6 months	1.14	100	100	
	0	> 6 months	0	100	0	
Summary Dismissal	392	1 month	88.49	88.49	90	14
	29	2 months	6.55	95.03	100	
	22	> 2 months	4.97	100	0	

Timeliness Summary – All ILP Audits Closed YTD

Matter Type	Matters Completed	Median Days	Target Median Days
self assessment audits			
web-based surveys			
on-site reviews			

Timeliness Summary – All Prosecutions Closed YTD

Matter Type	Matters Completed	Median Days	Target Median Days
Prosecutions			

Closure Summary – Conduct Matters - June 2009

<u>Conduct complaints closed (excluding ILP conduct complaints)</u>	<i>This Month</i>	<i>YTD</i>	<i>% of YTD</i>	<i>Last YTD</i>	<i>% of Last YTD</i>
no reasonable likelihood (NRL)	43	336	65.63	422	68.06
no public interest (NPI)	9	93	18.16	104	16.77
referred to disciplinary bodies	3	26	5.08	41	6.61
all other outcomes	4	57	11.13	53	8.55
total	59	512		620	

<u>ILP conduct complaints closed</u>	<i>This Month</i>	<i>YTD</i>	<i>% of YTD</i>	<i>Last YTD</i>	<i>% of Last YTD</i>
no reasonable likelihood (NRL)	0	0	0.0	0	
no public interest (NPI)	0	0	0.0	0	
referred to disciplinary bodies	0	0	0.0	0	
all other outcomes	0	1	100	0	
total	0	1		0	

<u>Investigation matters closed (excluding PIPA and ILP)</u>	<i>This Month</i>	<i>YTD</i>	<i>% of YTD</i>	<i>Last YTD</i>	<i>% of Last YTD</i>
no reasonable likelihood (NRL)	3	24	28.57	19	30.65
no public interest (NPI)	4	40	47.62	37	59.68
referred to disciplinary bodies	2	9	10.71	5	8.06
all other outcomes	2	11	13.1	1	1.61
total	11	84		62	

<u>ILP investigation matters closed</u>	<i>This Month</i>	<i>YTD</i>	<i>% of YTD</i>	<i>Last YTD</i>	<i>% of Last YTD</i>
no reasonable likelihood (NRL)	0	0		0	
no public interest (NPI)	0	0		0	
referred to disciplinary bodies	0	0		0	
all other outcomes	0	0		0	
total	0	0		0	

<u>PIPA investigation matters closed</u>	<i>This Month</i>	<i>YTD</i>	<i>% of YTD</i>	<i>Last YTD</i>	<i>% of Last YTD</i>
no reasonable likelihood (NRL)	0	2	28.57	1	1.72
no public interest (NPI)	0	5	71.43	55	94.83
referred to disciplinary bodies	0	0	0.0	1	1.72
all other outcomes	0	0	0.0	1	1.72
total	0	7		58	

Matters On-Hand – Summary - June 2009

<u>Matters On-Hand by Matter Type</u>	<i>Total</i>	<i>Start of Year</i>
under assessment – awaiting assessment	22	39
under assessment – awaiting further information	27	19
total	49	58
consumer disputes	5	4
conduct complaints	363	325
conduct complaints – ILP	0	1
investigation matters – PIPA	9	4
investigation matters – ILP	0	0
investigation matters – all other	32	57
total conduct matters	404	387
total complaints/investigation matters	458	449
ILP self assessment audits	38	54
ILP web-based surveys	7	0
ILP on-site reviews	1	2
total ILP compliance audits	46	56

<u>Matters On-Hand by Agency</u>	<i>Total</i>	<i>Start of Year</i>
<u>At LSC</u>		
complaints under assessment	49	58
consumer disputes	4	3
conduct matters	233	215
ILP self assessment audits	38	54
ILP web-based surveys	7	0
ILP on-site reviews	1	2
LSC total	332	332
<u>At QLS</u>		
consumer disputes	1	1
conduct matters	163	158
QLS total	164	159
<u>At BAQ</u>		
conduct matters	8	14
total	504	505

Matters On-Hand - By Workflow Stage - June 2009

Consumer Disputes

	<i>Total</i>	<i>Start of Year</i>
mediation in progress	5	2
under review/awaiting decision	0	2
total	5	4

Conduct Matters (including investigation matters)

	<i>Total</i>	<i>Start of Year</i>
investigation in progress	284	278
under review	60	36
awaiting decision	14	18
pre-prosecution preparation	8	10
on hold/abeyance	38	45
total	404	387

Conduct Matters Under Review

	<i>From QLS</i>	<i>From BAQ</i>	<i>Total</i>
at start of year	36	0	36
at start of period	43	0	43
at end of period	59	1	60
(net increase/decrease)	15	0	15
total reviews received and finalised this year	269	25	294

Matters On-Hand - By Workflow Stage - June 2009

<u>Prosecutions</u>	<i>Total</i>	<i>Start of Year</i>	<i>Previous Year</i>
assigned for prosecution	5	8	7
<u>Tribunal</u>			
waiting to file	1	4	3
waiting to serve	4	0	1
waiting directions hearing	4	12	8
waiting hearing/decision	10 #	12	8
total	19	28	20
<u>Committee</u>			
waiting to file	0	0	0
waiting to serve	3	1	0
waiting directions hearing	1	4	2
waiting hearing/decision	1	1	5
total	5	6	7
<u>Magistrates Court</u>			
waiting to file	1	0	0
waiting hearing/decision	1	0	0
total	2	0	0
<u>Under Appeal</u>			
	0	2	0
total	31	44	34

This figure includes 1 matter that has been heard and decided but is within the appeal period; 2 matters that have been heard but not yet decided; and 2 matters that are part-heard.

Prosecutions – Activity This Year - June 2009

<u>Initially Filed</u>	<i>YTD</i>	<i>Last Year Total</i>	<i>Previous Year</i>
in Tribunal	16	20	25
in Committee	6	8	11
in Magistrates Court	2	0	0
in Supreme Court	0	0	0
total	24	28	36

Heard & Finally Decided (including on appeal)

	<i>YTD</i>	<i>Last Year Total</i>	<i>Previous Year</i>
by Tribunal	21	5	18
by Committee	6	5	8
by Magistrates Court	0	0	0
by Court of Appeal	3	0	0
withdrawn/discontinued	5	9	15
total	35	19	41

Matters Referred/Returned for Review - June 2009

<u>Consumer disputes assigned during period</u>	<i>Month</i>	<i>YTD</i>	<i>% of YTD</i>
retained at LSC	8	94	94
referred to QLS	1	6	6
referred to BAQ			
total	9	100	

<u>Conduct complaints assigned during period **</u>	<i>Month</i>	<i>YTD</i>	<i>% of YTD</i>
retained at LSC	33	290	49.91
referred to QLS	21	273	46.99
referred to BAQ	0	18	3.1
total	54	581	

<u>Investigation matters assigned during period **</u>	<i>Month</i>	<i>YTD</i>	<i>% of YTD</i>
retained at LSC	11	62	81.58
referred to QLS	1	14	18.42
referred to BAQ	0	0	0.0
total	12	76	

<u>Conduct matters returned for review during period **</u>	<i>Month</i>	<i>YTD</i>	<i>% of YTD</i>
from QLS	46	285	91.94
from BAQ	2	25	8.06
total	48	310	

Matters Referred/Returned for Review - June 2009

<u>Summary of conduct matters on-hand **</u>	<i>QLS</i>	<i>BAQ</i>	<i>Total</i>
matters on-hand at start of year	124	14	138
matters on-hand at month-end	126	7	133
increase/decrease this period	-24	-2	-26
increase/decrease YTD	2	-7	-5
calculated difference YTD	2	-7	-5
<u>Differences between conduct matter recommendations/closure **</u>	<i>Month</i>	<i>YTD</i>	<i>% of YTD Finalised Returns</i>
from QLS	2	30	11.15
from BAQ	0	5	20
total	2	35	

** These figures count the number of *matters* that have been referred (and returned), not the number of *referrals* (and returns). That is to say, they count matters that are referred for investigation and then returned after investigation for review only once, even if they are referred back a second time (or third or more times) for further investigation.

YTD Trend	Start of Year	End of July	End of Aug.	End of Sept.	End of Oct.	End of Nov.	End of Dec.	End of Jan.	End of Feb.	End of Mar.	End of Apr.	End of May	End of Jun.
complaints/investigation matters on-hand	449	434	474	470	457	471	460	481	482	509	479	493	458
complaints received from public		73	96	93	91	94	79	85	73	109	92	92	89
investigation matters opened		7	14	9	4	2	3	7	9	6	3	12	3
complaints awaiting assessment	39	33	63	42	33	48	45	38	43	49	32	52	22
complaints awaiting further assessment info	19	25	22	25	24	22	18	18	19	19	22	23	27
consumer disputes on-hand	4	2	1	6	8	7	7	6	4	5	7	6	5
conduct matters on-hand (total)	387	374	388	397	392	394	390	419	416	436	418	412	404
conduct matters on-hand (at LSC)	215	224	216	250	235	223	209	231	224	248	233	218	233
conduct matters on-hand (at QLS) **	158	134	153	131	141	158	167	174	179	179	178	184	163
conduct matters on-hand (at BAQ) **	14	16	19	16	16	13	14	14	13	9	7	10	8
conduct matters under review	36	54	40	62	46	43	27	37	39	59	51	43	60
complaints/investigation matters finalised		95	70	106	108	82	93	71	81	88	125	90	127
prosecutions on-hand	44	47	45	43	44	47	47	43	42	38	37	32	31

****These figures count the total number of matters on-hand at the QLS/BAQ, including matters which they have previously returned for review but which the LSC has subsequently referred back for further investigation.**

YTD Trend (continued)	Start of Year	End of July	End of Aug.	End of Sept.	End of Oct.	End of Nov.	End of Dec.	End of Jan.	End of Feb.	End of Mar.	End of Apr.	End of May	End of Jun.
total no. of law firms	1328	1358	1370	1371	1381	1386	1382	1391	1392	1394	1416	1423	1398
no. of ILP's commenced		29	6	7	7	5	2	8	5	1	8	8	1
no. of ILP's ceased		0	0	1	0	0	0	2	2	2	1	2	3
total no. of ILP's	97	126	132	138	145	150	152	158	161	160	167	173	171
ILP's - % of law firms	7.3	9.28	9.64	10.07	10.5	10.82	11	11.36	11.57	11.48	11.79	12.16	12.23
no. of MDP's commenced		0	0	1	1	0	0	0	0	0	0	0	0
no. of MDP's ceased		0	0	0	0	0	0	0	1	0	0	0	0
total no. of MDP's	1	1	1	2	3	3	3	3	2	2	2	2	2
MDP's - % of law firms	0.08	0.07	0.07	0.15	0.22	0.22	0.22	0.22	0.14	0.14	0.14	0.14	0.14
ILP conduct matters on hand (at LSC)	1	1	0	0	0	0	0	0	0	0	0	0	0
ILP conduct matters on hand (at QLS)	0	0	0	0	0	0	0	0	0	0	0	0	0
ILP conduct matters on hand (total)	1	1	0	0	0	0	0	0	0	0	0	0	0
ILP conduct matters under review	0	0	0	0	0	0	0	0	0	0	0	0	0
ILP self assessment audits finalised	n/a	0	0	0	9	27	7	5	2	11	13	1	15
ILP self assessment audits on hand	54	66	78	89	80	61	56	58	59	48	45	47	38
ILP web-based surveys finalised	n/a	0	0	0	0	0	0	0	0	0	0	0	43
ILP web-based surveys on hand	0	0	0	0	0	0	0	0	0	49	50	50	7
ILP on-site reviews finalised	n/a	0	0	0	1	0	0	0	0	0	0	0	0
ILP on-site reviews on hand	2	2	2	2	1	1	1	1	1	1	1	1	1
ILP compliance audits on hand (total)	56	68	80	91	81	62	57	59	60	98	96	98	46

Complaints Avoidance – Month of June 2009

The following table records for every consumer dispute and conduct matter that the Commission has closed over the year to date, whatever its merits, whether in the complaint-handler's opinion the respondent could have done something to pre-empt or avoid the consumer dispute or conduct matter arising in the first place. Note that the table does not count complaints that were summarily dismissed.

Of the number of complaint/investigation matters closed since 1 July, excluding summary dismissals:	Number	%
Number assessed to be Unavoidable	218	31.64
Number assessed to be Avoidable	471	68.36
(Total)	689	

Unavoidable Complaints

The following table records for every consumer dispute and conduct matter that the Commission has closed over the year to date, and that in the complaint-handler's opinion was unavoidable, the reason why the complaint was considered unavoidable:

The consumer dispute/conduct matter was unavoidable because	Percentage
a) the complainant had ulterior motives	10.86
b) the complainant wouldn't take advice	2.71
c) the complainant had unrealistic expectations and/or made unreasonable demands	24.43
d) the complainant misunderstood the obligations of practitioners acting for the other side	18.55
e) the 'problem' is inherent in the adversarial system of justice	3.17
f) the complaint was baseless and could not have been avoided (eg: by better communication)	19.46
g) of some reason other than the above	21.72

Avoidable Complaints - Summary

The following table records for every consumer dispute and conduct matter that the Commission has closed over the year to date and that in the complaint-handler's opinion was avoidable, how in the complaint-handler's opinion it might have been avoided. The complaint might have been avoided had the respondent performed better in the following areas (see overleaf for further details):

Category	Percentage
Work Practices	28.88
Communication	25.74
Costs	18.66
Trust Accounts	10.41
Timeliness	6.09
Conflict of interest	4.13
Liens and transfers	2.75
Supervision	2.16
Record keeping	1.18

Avoidable Complaints - Detail

The following table records for every consumer dispute and conduct matter that the Commission has closed over the year to date and that in the complaint-handler's opinion was avoidable, how in the complaint-handler's opinion it might have been avoided.

Category	The consumer dispute/conduct matter might have been avoided if the respondent had	Percentage
Communication	a) communicated more professionally and courteously and/or ensured his/her staff did the same	12.18
	b) got all important instructions in writing	4.13
	c) clearly explained in writing the options, the process, the prospects of success and how long it will take	7.27
	d) clearly explained in writing who in the firm will do what, including who will deal with any complaint/concerns	1.57
	e) negotiated an agreed communication plan	0.59
Conflict of interest	a) implemented a system for identifying conflict, and obtained his/her client's informed consent to act	1.77
	b) ceased acting for both parties immediately a dispute became apparent	2.36
Costs	a) clearly explained in writing how much it will cost, or realistic estimate	5.89
	b) only charged what he/she was entitled to charge	7.27
	c) implemented an effective system for calculating and checking bills	1.38
	d) implemented an effective system for calculating and checking settlement figures	0.39
	e) examined the file prior to closure to ensure the matter was completed	0.2
	f) provided an itemised account on request, and in a timely manner	3.54
Liens and transfers	a) ensured his/her client understands a lien and the process for transferring files	0.59
	b) not exercised a lien when there was no need to	0.98
	c) transferred the lien in a timely manner	1.18
Record keeping	a) recorded all conversations with his/her client	0
	b) maintained an appropriate and secure filing system	1.18
Supervision	a) ensured his/her staff are adequately supervised	2.16
	b) implemented a process for, and dealt promptly with his/her client's complaints/concerns	0
Timeliness	a) implemented an effective bring-up system to ensure critical dates are met	0.59
	b) given regular updates	1.96
	c) explained any unavoidable delays	3.54
Trust Accounts	a) implemented effective systems for dealing with all the firm's finances	3.14
	b) known when he/she should have had a trust account	0.2
	c) engaged suitably trained staff	0
	d) ensured he/she had appropriate authority to transfer funds	6.68
	e) properly checked every payment	0.39
Undertakings	a) properly understood the implications of giving an undertaking	0
	b) monitored compliance with his/her undertakings	0
Work Practices	a) not taken on work outside his/her competence and expertise	3.93
	b) given correct and up to date advice	4.32
	c) communicated more effectively with his/her staff	0.98
	d) ensured he/she and/or his/her staff are adequately trained	0.59
	e) made good his/her mistake (eg:) apologising or discounting bill	2.75
	f) honoured his/her obligations under the law and to the Court and the other side	16.31

Glossary of Terms

The LSC database distinguishes four discrete types of matter - inquiries, complaints, ILP compliance audits and prosecutions, each with various sub-types - as follows:

1. **Inquiries** comprise inquiries that made typically by telephone but sometimes in writing, by email or in person including, for example:
 - inquiries by legal consumers, other members of the public and sometimes legal practitioners about how to make a complaint or seeking help to make a complaint about a legal practitioner or law practice employee, or queries about how the complaints and disciplinary process works or whether something a legal practitioner has said or done is proper or what it means, and so on. Inquiries might be made of either the LSC, QLS or BAQ;
 - informal complaints: concerns or 'complaints' made by legal consumers, other members of the public and sometimes legal practitioners about the conduct of a legal practitioner or law practice employee or some other person over whom the Commission may have jurisdiction that are made other than in writing and which the 'complainant' requests or agrees be dealt with informally, at least in the first instance (on the understanding that the 'complainant' remains entitled to make a formal written complaint if his or her concerns can't be resolved informally). Informal complaints might be made to the LSC, to the QLS or to the BAQ and are typically dealt with as if they were consumer disputes (see below); and
 - ethical inquiries: inquiries by solicitors or barristers of the QLS or BAQ respectively as their professional body about their ethical obligations as legal practitioners.
2. **Complaints** comprise formal written complaints that are made and dealt with pursuant to Chapter 4 of the Legal Profession Act 2007 (the Act) including investigation matters pursuant to section 451(1)(c). The Act requires that complainants make their complaints in writing and to the LSC (and only to the LSC). Complaints are logged on the CMS in the first instance simply as complaints. They are then assessed as falling into one of three mutually exclusive categories and logged accordingly - as summary dismissals, consumer disputes, and conduct matters, as follows:
 - **summary dismissals:** complaints that are beyond the Commission's jurisdiction or out of time or that are otherwise dismissed pursuant to section 448;
 - **consumer disputes:** complaints that describe disputes between consumers and legal practitioners and / or law practice employees but do not raise an issue of unsatisfactory professional conduct or professional misconduct on the part of a legal practitioner or misconduct on the part of a law practice employee. The Act provides that the LSC may try to mediate consumer disputes or alternatively refer them to the QLS or BAQ for mediation (and does not require the QLS or BAQ to report the outcome to the LSC); and
 - **conduct matters:** conduct complaints, ILP conduct complaints, investigation matters, PIPA investigation matters and ILP investigation matters, as follows:
 - **conduct complaints:*** complaints (whether or not they also describe consumer disputes) which, if proved, would justify a finding of either unsatisfactory professional conduct or professional misconduct by a legal practitioner (in their capacity as a legal practitioner, but not as a legal practitioner director of an ILP) or misconduct by a law practice employee or that the person subject to complaint is guilty of an offence (other than an offence in relation to ILPs);
 - **ILP conduct complaints:*** complaints about the conduct of legal practitioner directors of ILPs (in their capacity as legal practitioner directors of ILPs) which, if proved, would justify a finding of either unsatisfactory professional conduct or professional misconduct pursuant to the provisions of chapter 2 part 2.7 of the Act or that a legal practitioner director or other director, officer, employee or agent of an ILP has committed an offence pursuant to those or other ILP specific sections of the Act;

- **investigation matters:*** matters other than PIPA and ILP related matters (see below) that the LSC decides to investigate of its own motion because it suspects a legal practitioner (in his or her capacity as a legal practitioner, but not as a legal practitioner director of an ILP) has engaged in conduct in which, if the suspicions are proved, would justify a finding of unsatisfactory professional conduct or professional misconduct or that some other person over whom it has jurisdiction is guilty of an offence (other than offences in relation to PIPA or ILPs). Investigation matters are logged on the CMS as if the Commissioner had made a conduct complaint;
- **PIPA investigation matters:** matters that the LSC decides to investigate of its own motion because it suspects a legal practitioner or other person has breached the restrictions on the advertising of personal injury services or touted for personal injury services in contravention of the *Personal Injuries Proceedings Act 2002*; and
- **ILP investigation matters:*** matters that the LSC decides to investigate of its own motion because it suspects a legal practitioner director of an ILP has engaged in conduct which, if proved, would justify a finding of either unsatisfactory professional conduct or professional misconduct pursuant to the provisions of chapter 2 part 2.7 of the Act or that a legal practitioner director or other director, officer, employee or agent of an ILP has committed an offence pursuant to those or other ILP specific sections of the Act.

The Act requires the LSC to investigate conduct matters or alternatively to refer them to the QLS or BAQ for investigation in which case it requires the QLS and BAQ to report their findings and recommendations to the LSC for review and decision as to what further action is appropriate, if any.

3. **ILP compliance audits** comprise audits of incorporated legal practices undertaken pursuant to section 130 of the Act. They comprise both internal and external audits, as follows:
 - **ILP self-assessment audits:** internal audits undertaken by or on behalf of legal practitioner directors of ILPs to assess their compliance with their obligation under section 117(3) of the Act to ensure that the ILP keeps and implements appropriate management systems. The LSC requires ILPs to undertake self-assessment audits immediately or shortly after they notify the QLS (under section 114 of the Act) of their intention to engage in legal practice and periodically thereafter to assess their continuing compliance;
 - **ILP web-based surveys:** periodic external audits in which the LSC requires all or representative samples of the different levels and classifications of an ILP's employees to complete a short on-line survey which reviews aspects of the firm's 'ethical infrastructure';
 - **ILP on-site reviews:** more comprehensive external audits undertaken on-site at an ILP's offices following a risk-assessment which assesses the ILP to be at particular risk of non-compliance.
4. **Prosecutions** comprise conduct matters (including ILP and PIPA related conduct matters) that the LSC finalises after investigation on the basis that the Commissioner believes the evidence satisfies two criteria, viz.:
 - that there is a reasonable likelihood of a finding by a disciplinary body of unsatisfactory professional conduct or professional misconduct by a legal practitioner or misconduct by a law practice employee or a court that an ILP should be banned, that a person should be disqualified from managing an ILP or that a person is guilty of an offence under the Act; and
 - that it is in the public interest that the matter be determined by a disciplinary body or court, and hence initiates proceedings in the appropriate disciplinary body or court.

* The terms 'conduct complaint' and 'investigation matter', and 'ILP conduct complaint' and 'ILP investigation matter', are defined such that a conduct complaint or investigation matter about the conduct of a legal practitioner who happens to be a legal practitioner director of an ILP counts as an ILP conduct complaint or ILP investigation matter *if and only if* the conduct subject to investigation is conduct in the legal practitioner's capacity as a legal practitioner director of an ILP – that is to say, conduct that would, if proved, fall foul not of his or her obligations as a legal practitioner *per se*, but of his or her obligations under chapter 2, part 2.7 or other ILP specific provisions of the Act.