



Monthly Performance Report – October 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 October 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 197 inquiries during the month and the QLS received and dealt with a further 194, making a total for the month of 391 and for the year to date of 1481.
- The QLS also received and dealt with 226 ethical inquiries from practitioners, a total for the year to date of 968.

2. COMPLAINTS

- We received 99 new complaints during the month from members of the public, making a total over the year to date of 433 – a monthly average of 108.25 compared to the monthly average last year of 89, and the year before that of 94.
- We initiated 23 new investigation matters, a total for the year to date of 77 – a monthly average of 19.25 compared to the monthly average last year of 6.58 and the year before that of 11.25.
- Hence we opened 122 new complaints and investigation matters during the month and we have opened 510 over the year to date - a monthly average of 127.5. The 77 new investigation matters comprise 15.1% of the 510 new complaints and investigation matters we have opened over the year to date.
- We summarily dismissed 146, or 38.62% of the new complaints we have assessed since 1 July. We assessed 157 of the total number of 171 complaints we have summarily dismissed over the year to date within 1 month of receipt, in a median time-frame overall of 10 days compared to 14 days last year and 11 days in the year before that.
- We referred 0 consumer disputes to the QLS for mediation during the month, making a total for the year to date of 0 - or 0.0% of all new consumer disputes we have assigned for mediation over the year to date.
- We referred 26 new conduct complaints and 1 new investigation matter to the QLS for investigation during the month, making totals over the year to date of 98 and 1 respectively - or 43.56% of all new conduct complaints and 1.32% of all new investigation matters we have assigned for investigation.
- We referred 1 new conduct complaint and 0 new investigation matter to the BAQ for investigation during the month, making totals over the year to date of 10 and 0 - or 4.44% of all new conduct complaints and 0.0% of all new investigation matters we have assigned for investigation.
- The QLS returned 26 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
71004539	Referred to LPC	No Public Interest
71006352	Referred to LPC	No Public Interest

- The BAQ returned 0 **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 112 new complaints and investigation matters during the month, making a total over the year to date of 479.
- We (in this instance, the LSC and the QLS combined) finalised 7 consumer disputes during the month, making a total for the year to date of 30 – all 30 of them within 2 months of receipt, in a median time-frame overall of 21 days compared to 21 days last year and 17 days in the year before that.
- The number of consumer disputes on hand has changed from 5 at the beginning of the year (and 5 at the beginning of the month) to 8 at the end of the month.
- We finalised 71 conduct matters during the month, making a total for the year to date of 278 – 183 of them within 6 months of receipt, in a median time-frame overall of 145 days compared to 175 days last year and 131 days in the year before that.
- We finalised 57.99% 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 21.46% 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 5.48% with a decision to initiate disciplinary proceedings.
- We finalised 41.67% 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 33.33% 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 25% with a decision to initiate disciplinary proceedings.
- We finalised 4.26% 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 55.32% 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 404 at the beginning of the year (and 409 at the beginning of the month) to 416 at the end of the month – and of these, 333 are under investigation; 31 have been investigated and are under review with a view to closure; 16 have been reviewed and are awaiting decision; 12 have been reviewed and are under further consideration with a view to possible prosecution; and 24 are being held in abeyance.
- The total number of complaints and investigation matters on hand has changed from 458 at the beginning of the year (and 479 at the beginning of the month) to 489 at the end of the month.

3. ILP COMPLIANCE AUDITS

- The QLS advised the Commission that 7 corporations had notified it of their intention to engage in legal practice in Queensland and that 0 ceased to practice, bringing the total number of ILPs to 218 or 15.02% 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 2 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 45. We have finalised 35 self assessment audits over the year to date and have 48 on hand.
- We initiated 1 web-based surveys during the month, making a total over the year to date of 1. We have finalised 4 web-based surveys over the year to date and had 4 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 1. We have finalised 1 on-site reviews over the year to date and had 1 on hand at the end of the month.

4. DISCIPLINARY AND OTHER REGULATORY ACTION

- We initiated 1 new prosecution matters during the month, making a total over the year to date of 8. We have filed 5 discipline applications with the Legal Practice Tribunal and 1 with the Legal Practice Committee over the year to date.
- The Court of Appeal has heard and finally decided 0 discipline applications over the year to date, the Legal Practice Tribunal has heard and finally decided 6, the Legal Practice Committee has heard and finally decided 0 and 3 have been discontinued – a total of 9 matters have been finalised over the year to date.
- We had 30 prosecution matters in train at the end of the month, 11 filed in the Tribunal (compared with 17 at the beginning of the year), 6 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 11 waiting to be filed (compared to 10 at the beginning of the year).

5. OTHER HIGHLIGHTS

- The Commissioner and / or staff of the Commission completed 6 speaking engagements during the month – 1 at a practice management courses conducted by the QLS; 1 at the criminal law conference conducted by the QLS; 1 at a symposium on teaching legal ethics conducted by the LSC in conjunction with Griffith Law School; 1 at a workshop on regional / rural practice conducted by USQ; and 2 at a colloquium on ethics in large / corporate law firms conducted by USQ. We have completed 14 speaking engagements over the year to date.
- Further, the Commissioner and / or staff of the Commission:
 - prepared a paper for, and attended the first face to face meeting of the Consultative Group to the National Legal Profession Reform Project Taskforce.
 - co-hosted with Griffith Law School a symposium on the topic Educating Lawyers for the Ethical Challenges of Practice – the seventh in the series of symposia we are co-hosting with Griffith under the title Lawyers, Clients and the Business of Law. This symposium was timed to coincide with the visit to Queensland of a leading international legal ethicist, Professor Kim Economides. We are grateful to Justice Margaret White for making the introductory remarks and then participating in the discussion.
 - presented the initial findings of the more detailed statistical analysis of the results of the Workplace Culture Check survey we ran in February / March at a colloquium under the title Corporatising Legal Practice: Ethics, Culture and Structure hosted by USQ.

Summary of Matters – October 2009

<u>Inquiries</u>	LSC	QLS	Month Total	YTD Total
client inquiries handled during period	197	194	391	1481
ethical inquiries from practitioners handled during period	N/A	0	0	0
<u>Complaints/Investigation Matters</u>	Month	YTD	Avg/Mth YTD	Avg/Mth (Last Yr)
matters on hand at start of period	479	458	N/A	N/A
plus matters opened	122	510	127.5	95.42
includes complaints received from public	99	433	108.25	88.83
includes investigation matters opened (ILP)	0	1	0.25	0.0
includes investigation matters opened (PIPA)	19	68	17	1.42
includes investigation matters opened (all other)	4	8	2	5.17
less summary dismissals	34	171	42.75	36.92
less consumer disputes closed	7	30	7.5	7.33
less conduct matters closed	71	278	69.5	50.42
(total complaints/investigation matters closed)	112	479	119.75	94.67
(calculated totals)	489	489		
total on hand	489	489		
<u>ILP Compliance Audits</u>	Month	YTD	Avg/Mth YTD	Avg/Mth (Last Yr)
matters on hand at start of period				
self assessment audits	58	38		
web-based surveys	3	7		
on-site reviews	1	1		
total	62	46		
plus matters opened				
self assessment audits	6	45	11.25	6.17
web-based surveys	1	1	0.25	4.17
on-site reviews	0	1	0.25	0
total	7	47	11.75	10.34
less matters closed				
self assessment audits	15	35	8.75	7.5
web-based surveys	0	4	1	3.58
on-site reviews	0	1	0.25	.08
total	15	40	10	11.16
matters on hand at end of period				
self assessment audits	49	48		
web-based surveys	4	4		
on-site reviews	1	1		
total	54	53		

Summary of Matters - October 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	34	31	N/A	N/A
plus matters opened	1	8	2	1.75
less matters closed	5	9	2.25	2.83
(calculated totals)	30	30		
total on hand	30	30		

Assessment Summary YTD – Complaints Received from Public

	<i>Total</i>	<i>%</i>
new complaints allocated for assessment since 1 July	433	
of these, currently awaiting assessment as at: 4/11/2009	55	12.7
number of new matters assessed since 1 July	378	87.3
	Total	%YTD
of the number of new complaints assessed since 1 July:		
no. summarily dismissed	146	38.62
no. assessed to be consumer disputes	30	7.94
no. assessed to be conduct matters	199	52.65
total	375	

Online Requests Summary

	<i>Month</i>	<i>YTD</i>
complaints received this month	17	63
inquiries received this month	15	41
total received	32	104

Summary of Matters – October 2009

Timeliness Summary – All Complaints/Investigation Matters Closed YTD

Matter Type	Matters Completed	Timeband	Actual %	Cumulative %	Target %	Median Days
Conduct Matters	183	6 months	65.83	65.83	75	145
	55	18 months	19.78	85.61	100	
	40	> 18 months	14.39	100	0	
Consumer Disputes	30	2 months	100	100	90	21.5
	0	6 months	0	100	100	
	0	> 6 months	0	100	0	
Summary Dismissal	157	1 month	91.81	91.81	90	10
	9	2 months	5.26	97.08	100	
	5	> 2 months	2.92	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 - October 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)	30	127	57.99	336	65.63
no public interest (NPI)	14	47	21.46	93	18.16
referred to disciplinary bodies	1	12	5.48	26	5.08
all other outcomes	7	33	15.07	57	11.13
total	52	219		512	

<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	0.0
no public interest (NPI)	0	0	0	0	0.0
referred to disciplinary bodies	0	0	0	0	0.0
all other outcomes	0	0	0	1	100
total	0	0		1	

<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)	2	5	41.67	24	28.57
no public interest (NPI)	2	4	33.33	40	47.62
referred to disciplinary bodies	0	3	25	9	10.71
all other outcomes	0	0	0.0	11	13.1
total	4	12		84	

<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	0	0
no public interest (NPI)	0	0	0	0	0
referred to disciplinary bodies	0	0	0	0	0
all other outcomes	0	0	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	4.26	2	28.57
no public interest (NPI)	12	26	55.32	5	71.43
referred to disciplinary bodies	0	0	0.0	0	0.0
all other outcomes	3	19	40.43	0	0.0
total	15	47		7	

Matters On-Hand – Summary - October 2009

<u>Matters On-Hand by Matter Type</u>	<i>Total</i>	<i>Start of Year</i>
under assessment – awaiting assessment	41	22
under assessment – awaiting further information	24	27
total	65	49
consumer disputes	8	5
conduct complaints	357	363
conduct complaints – ILP	0	0
investigation matters – PIPA	30	9
investigation matters – ILP	1	0
investigation matters – all other	28	32
total conduct matters	416	404
total complaints/investigation matters	489	458
ILP self assessment audits	49	38
ILP web-based surveys	4	7
ILP on-site reviews	1	1
total ILP compliance audits	54	46

<u>Matters On-Hand by Agency</u>	<i>Total</i>	<i>Start of Year</i>
<u>At LSC</u>		
complaints under assessment	65	49
consumer disputes	7	4
conduct matters	224	233
ILP self assessment audits	49	38
ILP web-based surveys	4	7
ILP on-site reviews	1	1
LSC total	350	332
<u>At QLS</u>		
consumer disputes	1	1
conduct matters	177	163
QLS total	178	164
<u>At BAQ</u>		
conduct matters	15	8
total	543	504

Matters On-Hand - By Workflow Stage - October 2009

Consumer Disputes

	<i>Total</i>	<i>Start of Year</i>
mediation in progress	7	5
under review/awaiting decision	1	0
total	8	5

Conduct Matters (including investigation matters)

	<i>Total</i>	<i>Start of Year</i>
investigation in progress	333	284
under review	31	60
awaiting decision	16	14
pre-prosecution preparation	12	8
on hold/abeyance	24	38
total	416	404

Conduct Matters Under Review

	<i>From QLS</i>	<i>From BAQ</i>	<i>Total</i>
at start of year	59	1	60
at start of period	39	1	40
at end of period	31	0	31
(net increase/decrease)	-8	-1	-9
total reviews received and finalised this year	121	5	126

Matters On-Hand - By Workflow Stage - October 2009

<u>Prosecutions</u>	<i>Total</i>	<i>Start of Year</i>	<i>Previous Year</i>
assigned for prosecution	6	5	8
<u>Tribunal</u>			
waiting to file	5	1	4
waiting to serve	1	4	0
waiting directions hearing	3	4	12
waiting hearing/decision	7 #	10	12
total	16	19	28
<u>Committee</u>			
waiting to file	0	0	0
waiting to serve	1	3	1
waiting directions hearing	3	1	4
waiting hearing/decision	2	1	1
total	6	5	6
<u>Magistrates Court</u>			
waiting to file	0	1	0
waiting hearing/decision	2	1	0
total	2	2	0
<u>Under Appeal</u>			
	0	0	0
total	30	31	34

This figure includes 1 matter that has been heard and decided but which is within the appeal period (Dempsey) and 4 matters that are either part-heard or have been heard but not yet decided (Richardson, Bevan, Hay and Bradshaw).

Prosecutions – Activity This Year - October 2009

<u>Initially Filed</u>	<i>YTD</i>	<i>Last Year Total</i>	<i>Previous Year</i>
in Tribunal	5	16	20
in Committee	1	6	8
in Magistrates Court	0	2	0
in Supreme Court	0	0	0
total	6	24	28

Heard & Finally Decided (including on appeal)

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

Matters Referred/Returned for Review - October 2009

<u>Consumer disputes assigned during period</u>	<i>Month</i>	<i>YTD</i>	<i>% of YTD</i>
retained at LSC	10	35	100
referred to QLS	0	0	0.0
referred to BAQ			
total	10	35	

<u>Conduct complaints assigned during period **</u>	<i>Month</i>	<i>YTD</i>	<i>% of YTD</i>
retained at LSC	33	117	52
referred to QLS	26	98	43.56
referred to BAQ	1	10	4.44
total	60	225	

<u>Investigation matters assigned during period **</u>	<i>Month</i>	<i>YTD</i>	<i>% of YTD</i>
retained at LSC	20	75	98.68
referred to QLS	1	1	1.32
referred to BAQ	0	0	0.0
total	21	76	

<u>Conduct matters returned for review during period **</u>	<i>Month</i>	<i>YTD</i>	<i>% of YTD</i>
from QLS	26	87	96.67
from BAQ	0	3	3.33
total	26	90	

Matters Referred/Returned for Review - October 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	126	7	133
matters on-hand at month-end	138	14	152
increase/decrease this period	1	1	2
increase/decrease YTD	12	7	19
calculated difference YTD	12	7	19
<u>Differences between conduct matter recommendations/closure **</u>	<i>Month</i>	<i>YTD</i>	<i>% of YTD Finalised Returns</i>
from QLS	2	9	7.44
from BAQ	0	2	40
total	2	11	

** 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	458	461	475	479	489	0	0	0	0	0	0	0	0
complaints received from public		130	105	99	99	0	0	0	0	0	0	0	0
investigation matters opened		13	17	24	23	0	0	0	0	0	0	0	0
complaints awaiting assessment	22	45	37	48	41	0	0	0	0	0	0	0	0
complaints awaiting further assessment info	27	17	27	17	24	0	0	0	0	0	0	0	0
consumer disputes on-hand	5	8	4	5	8	0	0	0	0	0	0	0	0
conduct matters on-hand (total)	404	391	407	409	416	0	0	0	0	0	0	0	0
conduct matters on-hand (at LSC)	233	214	223	223	224	0	0	0	0	0	0	0	0
conduct matters on-hand (at QLS) **	163	169	174	172	177	0	0	0	0	0	0	0	0
conduct matters on-hand (at BAQ) **	8	8	10	14	15	0	0	0	0	0	0	0	0
conduct matters under review	60	40	42	38	27	0	0	0	0	0	0	0	0
complaints/investigation matters finalised		140	108	119	112	0	0	0	0	0	0	0	0
prosecutions on-hand	31	35	34	34	30	0	0	0	0	0	0	0	0

****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	1383	1426	1435	1437	1451								
no. of ILP's commenced		32	6	4	7								
no. of ILP's ceased		1	0	0	0								
total no. of ILP's	170	201	207	211	218								
ILP's - % of law firms	12.29	14.1	14.43	14.68	15.02								
no. of MDP's commenced		0	0	0	0								
no. of MDP's ceased		0	0	0	0								
total no. of MDP's	2	2	2	2	2								
MDP's - % of law firms	0.14	0.14	0.14	0.14	0.14								
ILP conduct matters on hand (at LSC)	0	0	0	0	0								
ILP conduct matters on hand (at QLS)	0	0	0	0	0								
ILP conduct matters on hand (total)	0	0	0	0	0								
ILP conduct matters under review	0	0	0	0	0								
ILP self assessment audits finalised	n/a	3	14	3	15								
ILP self assessment audits on hand	38	57	51	58	49								
ILP web-based surveys finalised	n/a	3	1	0	0								
ILP web-based surveys on hand	7	4	3	3	4								
ILP on-site reviews finalised	n/a	0	1	0	0								
ILP on-site reviews on hand	1	1	0	1	1								
ILP compliance audits on hand (total)	46	62	54	62	54								

Complaints Avoidance – Month of October 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	83	26.95
Number assessed to be Avoidable	225	73.05
(Total)	308	

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	12.79
b) the complainant wouldn't take advice	1.16
c) the complainant had unrealistic expectations and/or made unreasonable demands	24.42
d) the complainant misunderstood the obligations of practitioners acting for the other side	10.47
e) the 'problem' is inherent in the adversarial system of justice	6.98
f) the complaint was baseless and could not have been avoided (eg: by better communication)	22.09
g) of some reason other than the above	22.09

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	46.75
Communication	21.65
Costs	15.15
Trust Accounts	4.76
Timeliness	4.76
Conflict of interest	3.9
Liens and transfers	1.73
Undertakings	1.3

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	12.12
	b) got all important instructions in writing	2.16
	c) clearly explained in writing the options, the process, the prospects of success and how long it will take	5.19
	d) clearly explained in writing who in the firm will do what, including who will deal with any complaint/concerns	1.3
	e) negotiated an agreed communication plan	0.87
Conflict of interest	a) implemented a system for identifying conflict, and obtained his/her client's informed consent to act	2.16
	b) ceased acting for both parties immediately a dispute became apparent	1.73
Costs	a) clearly explained in writing how much it will cost, or realistic estimate	7.79
	b) only charged what he/she was entitled to charge	4.33
	c) implemented an effective system for calculating and checking bills	1.3
	d) implemented an effective system for calculating and checking settlement figures	0.43
	e) examined the file prior to closure to ensure the matter was completed	0.43
	f) provided an itemised account on request, and in a timely manner	0.87
Liens and transfers	a) ensured his/her client understands a lien and the process for transferring files	0
	b) not exercised a lien when there was no need to	1.73
	c) transferred the lien in a timely manner	0
Record keeping	a) recorded all conversations with his/her client	0
	b) maintained an appropriate and secure filing system	0
Supervision	a) ensured his/her staff are adequately supervised	0
	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	0.87
	b) given regular updates	0.87
	c) explained any unavoidable delays	3.03
Trust Accounts	a) implemented effective systems for dealing with all the firm's finances	1.73
	b) known when he/she should have had a trust account	0
	c) engaged suitably trained staff	0
	d) ensured he/she had appropriate authority to transfer funds	2.16
	e) properly checked every payment	0.87
Undertakings	a) properly understood the implications of giving an undertaking	0.87
	b) monitored compliance with his/her undertakings	0.43
Work Practices	a) not taken on work outside his/her competence and expertise	2.6
	b) given correct and up to date advice	4.33
	c) communicated more effectively with his/her staff	0.87
	d) ensured he/she and/or his/her staff are adequately trained	0
	e) made good his/her mistake (eg:) apologising or discounting bill	1.73
	f) honoured his/her obligations under the law and to the Court and the other side	37.23

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.*