

Peter Cherbi,

By Email to : petitions@scottish.parliament.uk

Mrs Zoé Tough
Assistant Clerk to the Public Petitions Committee
The Scottish Parliament
TG.01
EDINBURGH
EH99 1SP

05 January 2009

Dear Ma'am,

CONSIDERATION OF PETITION PE1197

Petition by Bill Alexander calling on the Scottish Parliament to urge the Scottish Government to reform the legal system to adopt the Scandinavian system of allowing unrestricted access to legal representation before the court for example by allowing non-lawyers to appear in court on behalf of other parties.

I refer to the above petition by William Alexander, noting submissions were called for by the Petitions Committee from various legal bodies in Scotland.

Noting that consumer organizations do not appear to have been asked for their input into this petition, I wish to provide my own view of the aims of this petition, as a consumer of legal services in Scotland.

I have for many years, campaigned for reforms both to regulation of legal services in Scotland and the opening up of the general public's access to justice. Members of the Petitions Committee will be familiar with the one of those issues, being the initial steps to reform regulation of complaints, via the Legal Profession & Legal Aid (Scotland) Act 2007, which has created a new 'independent' tier of oversight on Scotland's legal services market.

Over the years, there has been without a doubt, market dominance in legal services by members of the Law Society of Scotland. Simply, in order to gain access to the courts or legal services in most areas, the public have to use the services of a solicitor, who in turn is a member of the Law Society of Scotland.

This 'closed shop monopoly' of legal services in Scotland, controlled by the Law Society of Scotland, has not served many consumers, particularly when the client's case involves issues which the legal profession as a whole do not wish to in the courts, or feel it is not in their professional interests to act upon.

Personally, I can attest to these kinds of difficulties where the legal profession itself has chosen to obstruct & prevent my own access to legal services simply because issues I sought to raise in court related to misconduct & negligence involving other members of the Law Society of Scotland. I attach a copy of my submission to the 2006 LPLA Bill hearings by the Justice 2 Committee to support what I say in this regard.

Most MSPs in the Scottish Parliament will be well familiar with such problematic issues for solicitors which never seem to get to court or attain a satisfactory resolution, as constituents all across the country have asked & engaged their MSPs for assistance in dealing with problems involving the legal profession, either relating to regulatory issues, or a lack of access to justice which produce around 1000 or more letters from parliamentarians of this house, the

Westminster Parliament, & constituents to the Scottish Government's Justice Department every year.

If it were the case that for instance, the legal services market in Scotland was fully opened to competition other than being allowed to remain under the control of the Law Society of Scotland, I, and indeed any client who could not or was prevented from obtaining the services of a member of the Law Society of Scotland could gain access to legal services and have their cases resolved in court, one way or another, which under the current 'closed shop' model of being forced to use the services of a solicitor, is impossible.

I would point out further, that with regard to Sections 25-29 of the Law Reform, (Miscellaneous Provisions) (Scotland) Act 1990, which the legal profession successfully campaigned for some 17 years to keep out of public reach until it was implemented in March 2007, that applications so far under Sections 25-29, have been unfairly restricted in terms of what areas of law applicants can practice, by both the Lord President & Scottish Government.

I note for instance, both the Lord President and the Justice Secretary who must agree on applications under Sections 25-29 of the Law Reform Act are themselves, both members of the Law Society of Scotland, which was instrumental in withholding implementation of the appropriate sections of the Act for so many years, which several previous administrations seemed to agree with, to the point of one serving Lord Advocate putting forward the idea to 'quietly repeal' those particular sections of Law we are now talking about.

This arrangement, does not present an impartial consideration of applications for entry into the legal services market, currently controlled by one group, and therefore should be devolved to an independent accountable body with a transparent process of application, consideration & approval as appropriate to ensure access to justice is not controlled by the legal profession, but is rather a consumer choice, as in any other public service.

Mr Alexander's petition seeks to widen the rights of audience in Scotland, where qualified professionals who are not solicitors (i.e. members of the Law Society of Scotland), but who meet a certain professional standard of qualifications, experience, and are willing to be regulated by the Scottish Legal Complaints Commission can enter the Scottish legal services market.

It is my view this idea should be supported by the Petitions Committee and remitted for further consideration by the Scottish Parliament.

Yours sincerely

Peter Cherbi

Attachments :

Submission to Justice 2 Committee (2006) on difficulties with access to justice & regulation

File Note from Lord Hardie, released in a Scottish Government FOI detailing the idea to repeal sections 25-29 of the Law Reform (Misc Provisions) (Scotland) Act 1990.