

PE1197/F

Scottish Legal Complaints Commission
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Mrs Zoe Tough
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The Scottish Parliament
Holyrood
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By E mail: zoe.tough@scottish.parliament.uk

Dear Mrs Tough

WRITTEN RESPONSE TO PETITION PE1197

Thank you for giving the Scottish Legal Complaints Commission the opportunity to comment on Petition PE1197. The Scottish Legal Complaints Commission (SLCC) has considered the Petition which “calls 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”. The SLCC can now offer the following comments:

The Legal Profession and Legal Aid (Scotland) Act 2007 (the Act) established the Scottish Legal Complaints Commission. See link: ([\\SCOTSLITE\SLCC_Data\\$\Group\Case Handling Manual\8 Background Documents\2 General documents\2007 Act.pdf](#)).

The SLCC opened on 1 October 2008 and our main function is to handle complaints against members of the legal profession and to contribute to the development of good practice in complaints handling. We deal with service complaints made directly by members of the public against legal practitioners (solicitors and advocates) and complaints about the handling of professional conduct complaints by the professional bodies concerned (The Law Society of Scotland and The Faculty of Advocates). We also have an oversight function, especially in relation to the Master Policy, a scheme to provide professional indemnity insurance set up by the Law Society of Scotland and the Scottish Solicitors' Guarantee Fund, which may assist members of the public who have suffered financial loss because of a solicitor's dishonesty.

Under the powers of the Act, the SLCC is a gateway for all complaints about either the service provided by a legal practitioner or the conduct of a legal practitioner where it has not been possible for the legal practitioner or the practitioner's firm to resolve the complaint at source.

- The range of legal practitioners subject to the jurisdiction of the Commission is set out in section 46 of the Act which defines the term “practitioner”. The SLCC is concerned that the proposals suggested do not give “client's” sufficient protection in relation to the standards of service offered by a non-lawyer.
- The SLCC has concerns that a non-lawyer acting on a “client's” behalf may not have the protection of their representative being covered by Professional Indemnity Insurance or by membership of a recognised professional body, as defined under Section 27 of the Act.

- Under the terms of the Act, there would appear to be no provision for the SLCC to handle a complaint from a client about the service received from a non-lawyer representative not affiliated to a professional body as defined in the Act.
- Guidelines would need to be developed to ensure any non-lawyer did not inadvertently break the law; e.g. Section 61 of the Act where it is an offence for unqualified persons to prepare certain documents.

I trust the above comments are of assistance but please do not hesitate to contact the SLCC if you require any further information.

Yours sincerely,

Eileen Masterman
Chief Executive