

PE1525/E

Petitioner Letter of 9 November 2014

Petition 1525

I have found it quite difficult to reply to the responses from the various organisations, due to the terminology used, as much of it is written in legal jargon, making it difficult for a lay person to understand. For this reason, I contacted the Human Rights Commission for clarification on their response and they explained to me that the current legislation only meets the minimum requirements set out by the HRC. This surely leaves the door wide open for a violation of a person's human rights when trying to access justice, and I believe the response from the HRC concurs with my views.

I am aware that my own individual case cannot be the focus of the meeting, but I feel I must answer the comments made in the response from the SLAB. I am absolutely flabbergasted that they have no record of an application from me for legal aid. This may be the case but it, shows a lack of basic communication between the Civil Legal Assistance Office in Inverness and SLAB, as I had on several occasions approached them to attempt to make applications for legal aid. To gain confirmation of this, I had contacted the Civil Legal Assistance Office several weeks ago to ask for dates of all meetings and correspondence I had with them regarding legal aid. I was assured I would receive this information within one week, but this has not been forthcoming. I can assure you that it is certainly not for the lack of trying from the outset that SLAB have not received an application for legal aid. I, unfortunately never got past first base as nobody was willing to look at my case and listen to the situation I found myself in.

Having contacted SLAB for some clarification on their response I was advised that all applications for legal aid are considered provided they are processed through the proper format, i.e. a solicitor. This is one area where there is a huge failing in the current legislation. It is apparent that people are caught in a catch 22 situation where you cannot apply for legal aid without a solicitor, but cannot get a solicitor who is willing to take on the case. My experience of trying to get a solicitor, having been given a list of firms by the Law Society, both in Inverness and outwith, who supposedly did legal aid, was one of complete unwillingness on their behalf to take on civil cases involving legal aid. It would seem it was only criminal cases they were interested in.

A system where you require to have a solicitor to apply for legal aid is of no use unless that system also guarantees that a solicitor will be made available for that purpose. Making legal aid more broadly available regarding defamation, would of course, incur extra costs, but surely, any case, which has gone before a court should, in the interest of justice be challengeable. This would obviously have to be on an evidential basis and not merely on someone's desire to appeal a court

decision. I do not believe that this would be akin to opening the floodgates, but would, rather be a safeguard against genuine miscarriages of justice. When someone suffers an injustice, this is the time when the protection of the law is of paramount importance and for the less wealthy, when legal aid is needed most. Sadly the reality is that they are left totally alone to challenge a system that chooses to ignore their plight. I believe the Scottish Government should review the current legislation regarding legal aid in defamation cases, as the changes made in the Directive 2010 do not go far enough to ensure access to justice for all.

I personally know the cost of suffering an injustice, resulting in my losing everything I had ever worked for and being forced into bankruptcy. This is why I am so passionate about my petition and the reasons the law should change, to protect others from its devastating effects. Unless the Scottish Government do take action to this effect, it can only be looked upon as condoning injustice, albeit for a minority of people who find themselves being taken through the court system. Everybody, without exception must have the right to defend the truth and therefore should be provided with the opportunity to highlight any errors and discrepancies in any court decision. The Justice system must always be about getting to the truth, and cost or time should never be an issue regarding this.

Thank you all for allowing me to bring my petition before you, and taking the time to discuss it. I hope that after considering all the responses and comments regarding this, you will take the decision to take further action to urge the Scottish Government to review and make changes to the current law.

Catherine Fraser.