

PE1724/A

The Lord President submission of 25 July 2019

The Lord President has noted the terms of the above petition, and considers it appropriate to respond, as follows:

1. The petition asks the Scottish Parliament to consider if there is institutionalised prejudice and bias within the Scottish Government and the Scottish Courts against anyone who is not a solicitor or an advocate. The petitioner makes a number of allegations against the Scottish Government. It is of course for the Scottish Government to respond to those. This response is restricted to allegations of bias which are directed against “the Scottish Courts”. It is not clear from the petition whether these allegations of bias are directed against individual judicial office holders, such as the Lord President or the sheriffs principal, both of whom are mentioned, or against the Scottish Courts and Tribunals Service. Since it is the actings of sheriffs principal and the Lord President which appear to be complained of, it is assumed that these allegations are directed against judicial office holders.

2. The Lord President wishes to make it clear that there is no bias or prejudice against the Association of Commercial Attorneys, or any of its members, on the part of any judicial office holder. Any demonstration of bias or prejudice would constitute grounds for a complaint. There are complaints procedures available under the Complaints about the Judiciary (Scotland) Rules 2017. The petitioner has not sought to bring a complaint against any judicial officer holder. Support for any allegation of bias against judicial officer holders seems to be based on a single issue. In April 2017 the Association sought the views of the Lord President on whether members of the Association should wear gowns in court. It was the view of the sheriffs principal, who were consulted, that it was likely that the court would be misled by the fact that both solicitors and commercial attorneys were wearing gowns. The Lord President subsequently made it clear that there was no suggestion that any commercial attorney would mislead the court; it was simply that there was scope for confusion. That is, in the view of the Lord President, a reasonable concern. If evidence could be provided to demonstrate that the risk of confusion is minimal, or that there are other advantages inherent in commercial attorneys wearing gowns, then that view can be reconsidered. There is no other evidence offered in support of the allegation that such bias and prejudice exists.

3. The petitioner complains about various matters relating to the drafting and finalising of a revised Scheme designed to update and extend the rights of audience of commercial attorneys and the Association’s governance arrangements. The Lord President’s Private Office provided very substantial assistance to the Association Secretary in relation to the revised Scheme. That included framing the draft application in terms of the provisions of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990, arranging and conducting a consultation on the draft application, and framing a consultation report. The extended rights sought by the Association were granted in their entirety.

4. It is not clear whether this petition represents the views of the petitioner, as an individual, or in his capacity as President of the Association of Commercial Attorneys. It is not clear also whether the views are supported by his fellow officer-bearers, and the members of the Association. No other office-bearer or member has ever raised these issues with the Lord President and his officials. There is no foundation in fact for the impartial investigation which Mr Alexander seeks. Such an investigation could not, in any event, consider the actings of judicial office holders.