

PE1479/B



26 Drumsheugh Gardens
Edinburgh EH3 7YR
Legal Post LPI Edinburgh -1

T: 0131 226 7411
F: 0131 225 2934

Textphone: 0131 476 8359

Anne Peat
Clerk of the Committee
Public Petitions Committee
Scottish Parliament
Holyrood
EDINBURGH
EH99 1SP

Ref: LS222/MPC/LC
Date: 27 May 2013

Dear Ms Peat

PE1479

I refer to this petition which will be considered by the Committee tomorrow. As the professional body for Scottish solicitors and the body responsible for setting standards and investigating conduct complaints against solicitors, we hope the following comments will aid Committee members in their consideration of the petition.

The Legal Profession and Legal Aid (Scotland) Act 2007 governs complaints against practitioners defined in section 40 of the act. This definition includes solicitors, solicitor firms, advocates, conveyancing and executry practitioners and persons exercising rights of audience.

The Scottish Legal Complaints Commission is the gatekeeper for complaints made about practitioners. Section 1 of the act provides that where the Commission receives a complaint about the conduct or service provision by a practitioner it must, subject to section 1(3), sections 3 and 4 and rules made under section 32(1) take preliminary steps detailed in section 1(4).

Section 1(4) details the preliminary assessment of the complaint, section 3 relates to complaints which are subject to specified complaints schemes eg financial services issues and section 4 relates to complaints not made timeously or prematurely.

Section 4(1) provides that the commission is not to take the preliminary steps if a complaint is not made timeously. Section 4(3), as stated in the petition provides that "a complaint is not made timeously where -

- (a) rules made under section 32(1) fix time limits for the making of complaints;
- (b) the complaint is made after the expiry of the time limit applicable to it;
- (c) the Commission does not extend the time limit in accordance with the rules."



The Scottish Legal Complaints Commission Rules 2009, Rule 4(6) provides that " A complaint will not be accepted (unless the Commission considers that the circumstances are exceptional) if it s made more than 1 year after ..." the suggested professional misconduct or inadequate professional service.

The petition concerns the Legal Profession and Legal Aid (Scotland) Act 2007 and the rules of the Scottish Legal Complaints Commission. The exception to the time limit contained in rule 4(6) ensures that if the circumstances of the non-timeous submission of the complaint are exceptional the Commission may waive the time limit. If the petitioner has not done so already he may want to seek legal advice about the exercise of this discretion by the Commission.

We are now seven years on from the establishment of the Scottish Legal Complaints Commission and the commencement of the new complaints system as set out by the 2007 Act. In that time, both the Society and the SLCC have identified practical issues around the workings of the Act. That is why the Society and the Commission believe the legislation needs review and have collectively brought concerns to the attention of both the Scottish Government and the Scottish Parliament Justice Committee.

A working group has been formed to examine the law, to ensure proper consultation with those representing consumer interests and to present proposals for change. Any proposals will focus on maintaining a robust system for legal complaints which protects the public interest but is ultimately more efficient. I will inform the Committee when those proposals are available.

Yours sincerely

Michael P Clancy
Director, Law Reform