

## **Justice Committee**

### **Legal Profession and Legal Aid (Scotland) Act 2007**

#### **Letter from the Scottish Legal Complaints Commission to the Committee**

When the Legal Profession and Legal Aid (Scotland) Act was passed in 2007, the legislation was heralded as a historic milestone in the regulation of the legal profession and a huge step forward for consumers. We're proud of what the SLCC has achieved since the Act came into force. We're established as the single gateway for legal complaints in Scotland, working as an impartial, independent and accessible regulator to build trust and confidence in the Scottish legal system. The SLCC remains as committed as ever to the very positive aims of the Act and we continue to recognise the value of the powers and duties which the legislation bestows on the Commission.

However, the Act is overly complex in some areas. Some provisions create inefficiency and delay in the complaint handling process and consequently the legislation is serving neither the interests of complainers nor the profession as best as it could. The complaints regime created by this statutory framework is cumbersome, with decisions on the eligibility of complaints being particularly problematic. The increasing costs of handling complaints under some of the existing provisions of the Act are of concern in the current economic climate. Furthermore, the delays in processing complaints are a source of frustration not only for complainers and practitioners but also the SLCC itself. This runs counter to the good intentions of the Act.

The Law Society of Scotland has its own concerns about the Act. We have talked to its Regulatory Committee to identify the deficiencies of the statutory regime from our separate perspectives. Of course, it's essential that we engage with and listen to consumers to understand and address their frustrations with the current system.

Since 2008, we have repeatedly raised our concerns about the effectiveness of the Act and we have made representations to the Scottish Government, most recently in a letter to the Justice Secretary on 23 April. We feel that if the shortcomings of the legislation are not addressed urgently, then the wider objectives of the Act in relation to promoting transparency of, and confidence in, the Scottish legal profession will be undermined. Legislative change is essential if the Commission is to operate an effective and value-adding complaints handling system at reasonable cost.

Four years after the Act came into force would seem to be an appropriate time for post-legislative scrutiny of how the statutory regime is working in practice, and I would ask the Justice Committee to consider launching an inquiry into the current system of regulation of the legal profession in Scotland. If this is not possible due to pressures on the Committee's forward work programme, then the SLCC would be willing to work with stakeholders to bring forward a set of proposals. In these circumstances, perhaps the Committee could consider nominating a Committee Reporter to join such a working group.

Jane Irvine  
Chair  
Scottish Legal Complaints Commission