

Scottish Legal Complaints Commission
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Mr Ben Thomson



Sent via email: [REDACTED]

1 February 2010

Dear Mr Thomson

Review of Rights of Audience in the Supreme Courts

Thank you for your letter of 18 January 2010 informing us that your draft report was available and inviting the SLCC to comment.

We read the report with great interest, in particular Chapter 6 in relation to complaints handling. Our comment on this is very short – we are in complete agreement with your proposals, particularly in relation to one body, the SLCC, investigating both conduct and service complaints.

With the passing of time and gaining of experience, and in the context of what the SLCC knows about complaint handling, our view is that there should be one investigation of a complaint whether it be service or conduct. The professional body could then analyse the facts as found to determine prosecution or other outcome bearing in mind the full records they hold on the relevant practitioner.

The SLCC would continue to determine the sanctions in respect of service complaints and the appropriate regulatory body those in respect of conduct. It is our strongly held view that the continued separation of investigation of conduct and service matters is both inappropriate, fails to ensure consistency across the board, has potential for duplication, incurs unnecessary expense and can be confusing for some complainers.

The views and recommendations set out in your draft report are wholly consistent with ours and resonate with the responses we made to the Scottish Government in respect of the Legal Services Bill. We are of the view that if and when alternative business structures come into being, any issues with the current complaint handling systems will be amplified as the complaint environment becomes more complex. While having the single gateway of the SLCC will go some way to ensuring consistency of approach, the continuation of dividing conduct and service has the potential to make complaint handling even more complex and almost certainly more expensive in totality. Without the element of commonality that a single investigation could achieve, we see potential for inconsistency and confusion for complainers.

We fully support also the recommendation that you make that there should be a single Discipline Tribunal for members of the Law Society of Scotland and the Faculty of Advocates. This too would promote consistency of approach and avoid some duplication that exists in the current system. Moreover it would aid transparency of the Faculty of Advocates Discipline system and bring more independence to their conduct procedures.

We look forward to the publication of the final report.

Yours sincerely

Jane Irvine
Chair to the Scottish Legal Complaints Commission