



RESPONSE TO THE LORD PRESIDENT'S CONSULTATION ON AN APPLICATION BY THE ASSOCIATION OF COMMERCIAL ATTORNEYS re. RIGHTS OF AUDIENCE, ETC

January 2019

About the SLCC Consumer Panel

The SLCC Consumer Panel is an independent advisory panel set up by the Scottish Government in January 2015.

The specific purpose of the Panel is to assist the SLCC in understanding and taking account of the interests of consumers of legal services. The Panel was established by the Legal Profession and Legal Aid (Scotland) Act 2007.

The key activities of the Panel are to:

- Make recommendations to the Commission for improvements to the Commission's policies and procedures;
- Make suggestions to the Commission of topics for research connected to consumers; and
- Express views on such matters relevant to the Commission's functions as the Commission directs.

The Panel is comprised of representatives from a number of consumer-focussed organisations and bodies from across Scotland. The Panel's Chair is **Carol Brennan**, of the Consumer Dispute Resolution Centre at Queen Margaret University.

The SLCC Consumer Panel greatly welcomes this opportunity to contribute to the discussion on potential amendments to the existing rights of the Association of Commercial Attorneys, one of the Relevant Professional Organisations whose complaints processes fall under the oversight of the SLCC.

We have responded below by making general observations in relation to the consultation, and specifically to those which we consider fall within the remit of the Panel.

Consultation on an application by the Association of Commercial Attorneys (ACA) re. rights of audience, etc.

1. Amended rights of audience

The Panel notes that the first three amendments, which are related to redefining the ACA's members' rights, aim to bring these into line with changes which have taken place elsewhere as a result of court reforms. The Panel fully endorses these proposed changes where they provide clarification, remove inadvertent discrepancy, and result in a process which is easier for consumers to understand.

2. Extended rights of audience

The Panel is concerned to note the experience recorded of ACA members in respect of problems around locating local agents to represent cases where, it would appear, such representation may in any event be disproportionate and unnecessary. In addition to the risks outlined in the consultation paper, in relation to reputation and competition, the Panel would assume that the scenarios outlined are likely to lead to dissatisfaction on the part of consumers which, by extension, may very well lead to complaints against ACA members.

Proposals which not only provide a simpler "one stop" service, produce a more stream-lined process, and also provide wider choice for consumers, are ones which the Panel believes should be seriously considered.

3. Governance

The Panel's comments regarding governance are restricted to those elements which relate to the ACA's proposed complaints process.

As a Relevant Professional Organisation within the oversight of the SLCC, the ACA's complaints process falls under the terms of the Legal Profession and Legal Aid (Scotland) Act 2007. The Panel notes that the proposed process for dealing with complaints in a number of respects does not meet the requirements of that legislation.

The Panel is aware that the SLCC's Oversight staff are liaising with the ACA over this and that a revised complaint process, complying with the terms of the Act, is being drafted.

The Panel would simply comment that, whilst recognising the complexities imposed by the Act, any process for dealing with complaints should aim to be consumer-friendly from the point of view of simplicity and accessibility. The customer journey to

redress, where services do fall below standard, should be a speedy one and one that is not hindered by unnecessary layers of referral.

Contact and further information

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