

## **SLCC Rules – proposed changes**

This policy note accompanies the proposed changes to the SLCC Rules, and sets out the policy objectives of the proposed changes.

### **Introduction**

The Legal Profession and Legal Aid (Scotland) Act 2007 sets out the duties of the SLCC to make rules as to practice and procedure. Schedule 3 of the Act sets out which provisions must be included and may be included in the Rules. The Act requires the SLCC to keep the Rules under review and to vary them whenever it considers it appropriate to do so. The Act also sets out the requirements for consultation on any proposed changes. The rules currently in force are the Rules of the Scottish Legal Complaints Commission 2016. We therefore believe that this review is timely and provides the opportunity to make a number of amendments we believe are required across a number of different sections of the Rules.

### **Policy objectives**

The objectives of the proposed changes are to update the Rules to allow the SLCC to discharge its statutory duties efficiently and effectively. They take account of the changing external landscape and norms, including technology, communication methods and administrative tools. They also respond to specific issues which have arisen in the last five years, where we have identified that a change in the Rules would be desirable to update or to clarify our processes and procedures.

Here we detail the specific areas where we propose substantive amendments to the Rules and explain the rationale for such changes. Please note that to allow consideration of the amended Rules, references to Rule numbers below correspond to the updated numbers in the annotated version attached, not the current version of the Rules.

### **Confidentiality (4)**

The existing version of the Rules pre-dates GDPR, so the changes proposed ensure that this section complies with updated confidentiality and data processing requirements.

### **Removing unnecessary barriers to digital processes (5, 15, 23, 24, 26)**

In a number of places we have proposed changes to the Rules which remove unnecessary barriers to digital processes which are now in common use.

This includes clarifying that communications required by the Rules to be ‘in writing’ include communications sent by electronic means, while explaining that notices requiring to be sent to parties may be sent by electronic means where parties agree to that means of sending.

We have removed unnecessary restrictions on the means by which mediation, oral hearings and determination committees can take place, in order to allow for digital options, as appropriate and available.

#### **Clarified process for complaints made on behalf of another person (6)**

These changes clarify the existing provisions regarding the process for complaints to be made on behalf of another person. They seek to clarify who can make complaints on behalf of others and the requirement to provide verification of authority to act in that capacity.

#### **Simplified requirements to make a complaint (7, 18)**

These changes aim to remove unnecessary administrative barriers to making a complaint. They also clarify when a complaint is deemed to have been registered by the SLCC, reflecting the different means by which complaints can be received by the organisation.

There are proposed amendments to the information required by the SLCC in order to register a complaint, which reflect the minimum requirements the SLCC believes it requires to do so.

The changes also simplify the clauses relating to requests for advice and the provision of guidance and practical assistance to make a complaint.

#### **Updated the section on time limits (8)**

These proposed amendments update and simplify the section on time limits in recognition of the elapsed time since the changes to time limits came into force in 2017.

They also amend to clarify the circumstances in which the SLCC may accept a complaint that has not been made within the specified time limits.

#### **Clarified process for premature complaints (9)**

These amendments seek to clarify the expectation that the SLCC will not normally take any preliminary steps or further action in respect of premature complaints, and the circumstances in which the SLCC may proceed to take action.

#### **Clarified powers on information gathering (11)**

These amendments aim to allow the SLCC to identify the nature of the information it requires from parties, and the form in which it would be most usefully provided, in order to carry out its functions efficiently. This is intended to assist a transition to use of digital formats, which will reduce delay and cost within the complaints system.

### **Highlighted the focus on resolution (14)**

This section aims to clarify and highlight the SLCC's focus on the resolution of complaints, and the steps we make take to facilitate this.

### **Removed prescriptions on information provided at mediation (15)**

These amendments remove unnecessary prescription from the Rules in relation to the information provided at mediation.

### **Supplementing circumstances for discontinuing a handling complaint (21)**

These amendments add a circumstance in which the SLCC may discontinue, and decide not to reinstate, a handling complaint, where we believe that the Relevant Professional Organisation may be unable to comply with recommendations the Commission may make due to the death or incapacity of the practitioner concerned.

### **Extensions and deferment (28, 29)**

These amendment clarify that any extension must be directly linked to a specific procedural step, and that any deferment must be directly linked to a specific date or event.

### **Other amendments**

There are a number of other amendments made to the Rules in order to:

- Make language gender neutral throughout
- Update definitions to ensure they correspond to terms used in the Rules
- Make minor or consequential corrections to clauses.