Name of petitioner
Bill Tait

Petition title
Scottish Legal Complaints Commission review

Petition summary
Calling on the Scottish Parliament to urge the Scottish Government to review the operation of the Scottish Legal Complaints Commission with a view to making the process of legal complaints more transparent and independent.

Action taken to resolve issues of concern before submitting the petition
I have spoken to Jamie Greene MSP.

Petition background information
This petition has been submitted to highlight potentially serious problems relating to the SLCC and their in-house procedures. Within their annual reports, they clearly indicate that they are working with the justice section of the Scottish Parliament, therefore they are part of the justice machinery within Scotland. I suggest the Scottish public are at the receiving end of potential injustice, which could be unnecessarily costing the public £500,000+ annually, as a result of SLCC procedures.

Introduction
I am suggesting that the legal complaints procedure is flawed, biased and completely set against the complainant. This statement has been made as a result of over two years on the ground research examining the route and nuances within this procedure. The whole process operates apparently behind closed doors with the SLCC having no responsibility to anybody. For the SLCC to suggest redress is to register a complaint with the Court of Session is insincere and disingenuous, as few complainants could afford to travel down that route. Therefore, it is suggested the SLCC operate in a bubble. They suggest that they are an independent body, which on the surface has some truth, but examining beyond this statement the structure surely must introduce bias in favour of the legal profession?

Surely the SLCC is cognisant of this and too many upheld complaints might be difficult. Their untouchable environment is enhanced, as the Law Society appears to desire no involvement, nor introduce quality control. The SLCC produces an annual report, which employs such a journalistic style as to create, it is suggested, an illusion of success. But I suggest that behind this veneer of window dressing there is a very different story. Apart from the untouchable environment that has been created, either solely or partly...
Apart from the unsatisfactory environment that has been created, either solely or partly, by the SLCC, the protocol and practices within the SLCC, it is suggested, are stacked against the complainant.

It is suggested that the Chair Person’s statement in the 2015/2016 Annual Report is simply not achievable: “At the heart of our work is an impartial, fair and efficient complaints process.” If it is so impartial and fair, why operate behind a wall of silence with no transparency? The operating methods created by the SLCC orchestrate this environment, which runs counter to what the Chair Person suggests they are achieving.

**SLCC Policy and Operating Environment**

All parties within a complaint must assume the rules are stable and fair and that the playing field is level. It is suggested that the extract from the Rules of the SLCC 2015 demonstrates this is not the case. The petitioner likens this to the home side at football changing the rules halfway through the game and possibly not telling the other side!

**Rule of the SLCC 2015, Extract**

“Directions as to procedure; The Commission may regulate its own procedure as regards a particular complaint and in particular, may give such direction as it thinks fit as to the procedure to be followed at any stage in the complaint (provided the direction is consistent with the Act, with the other Rules and with the interests of justice and is made with regard to considerations of proportionality).”

How do you maintain consistency regarding what is and is not in the interests of justice, how arbitrary a culling system and who is checking the decisions are legitimate and consistent? ...No one apart from the SLCC who are involved in this questionable practice!

A client lodges a complaint and, indeed, that complaint may have been prepared by a solicitor but such a submission does not automatically go in to the complaint file. The SLCC play some form of “God” and determine whether they wish to forward it as a complaint, or dismiss it outright. Whatever route a complaint follows, the reasoning should be written down and the public given access for all to understand. Those that reach the “complaint in” basket have an investigator assigned to them and the complainant eventually gets a report, which I suggest can bear little resemblance to the complaint. The party being complained about privately lodges a defence, including possibly papers, and the investigator takes these apparently on face value.

For example, a complained-about party could submit papers, which the complainant has never seen and will never see and is unable to verify the veracity of the documents, as the report does not carry copies to support the SLCC’s source and findings. There requires to be much more openness.

**Code of practice**

The SLCC state the Code of Practice for Scottish Solicitors is referred to when making a decision about an investigated complaint. The SLCC do not specify their source reference from this Code and therefore do not support their report in any way. Without such cross reference, the report is simple fiction. They refuse to support potentially misguided investigation in this regard, as they do not quote the text reference from this Code. (Can this be interpreted to mean they think they can literally say anything they like without fear or favour as they shall refuse to justify it and you can’t make them?!) If a complainant cannot be furnished with references within the Code of Practice and copies of documents allegedly previously supplied to the complainant; why bother?

In relation to investigation reports, which they refuse to substantiate, the public will never know the quality of the report and none of the content will ever be supported by source material or Code reference. Complaint success may be no more than a lottery. The process of appeal is also weak and vulnerable; it is never likely that a true appeal can be made, as there is carte blanche for colleague nepotism as a result of self-policing. Colleagues vetting colleagues; what do you believe the outcome will be, surely this is open to abuse, skewed reviews and misuse of position? There is equally little transparency with the reviews as there is with the initial investigations.
A proper investigative report and appeal review should have attached the documentation upon which it relies, as well as furnishing a full reference list, copies of documents upon which the SLCC base their claims and details of the section of the Code of Practice upon which the text relies.

The annual reports that the SLCC submit to the Scottish Parliament, because of the procedure, can slip in to Parliament on slippers, as this glossy publication with a veneer of optimism may well not be read at all or scanned over. It is difficult to examine the annual reports, as they appear to adopt different formats therefore for the sake of expediency 2014/15 and 2015/16 will be examined but the petitioner invites a broader examination. A full set of stats is shown in the more complete report.

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<tr>
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<th>2015/16</th>
<th>2014/15</th>
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<tbody>
<tr>
<td>Collected (upheld)</td>
<td>£324,400</td>
<td>£401,340</td>
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<tr>
<td>Disregarded or denied</td>
<td>£553,752.32</td>
<td>£1,204,091.80</td>
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Investigator productivity based on six investigators in 2015/16: 1.3 investigations per week and 2014/15: 1.5 investigations per week. It is suggested that this is very low productivity.

The petitioner questions if the financial amounts disregarded or denied genuinely reflect a quality that it is so poor to merit the SLCC's wholesale negative indifference of these submissions.

Therefore the petitioner suggests that the SLCC reports are constructed to mislead e.g. 2015/16 Report highlights 77% upheld but this is actually only 509 cases, which equals 31.72% of the whole, which makes the 77% somewhat misleading and 2014/15 shows 72%, which represents 341 cases or 27.79% against 72%, which again surely is designed to mislead.

**Conclusion**

The system the petitioner suggests has many flaws all operating against the Scottish people and the first flaw is to allow this body to be independent, then the petitioner suggests without any hesitation the SLCC should not and must not be allowed to self-review their own reports/complaints. They must not be allowed to hide behind their intransigence and total indifference regarding openly showing how their decisions come about; all reports "published" by the SLCC must be accompanied with source details, references and copy documents included to ensure the complainant has the fullest information possible to understand the SLCC ruling.

Falling short of this basic standard is doing the complainant a disservice and the SLCC the creation of a much lower benchmark than they should have. By not being open the complainant has his right of rebuttal removed. There must be an opportunity for the complainant to be able to meet with SLCC personnel, as opposed to the covert environment they create currently giving them total control at the expense of the public.

Complaints about their initial reports simply must not be executed in-house and self-policed by the SLCC. There has to be a mechanism for complaints about the SLCC to be reviewed by a truly independent body with no association however tenuous with the Law Society, Scottish solicitors or the SLCC.

There must be an outside source to which the public can direct their dissatisfaction regarding the standard of work published by the SLCC, otherwise the whole process simply collapses. Self-policing is NOT an option.

The figures, which the public are likely paying to solicitors for poor service levels, surely are reprehensible and unless a more transparent process is put in place, the legal professional quality yardstick will never improve. I recommend that the processes employed are examined and that these are fully reviewed independently with a view to recommendations to create a fairer system and
Submitted independently with a view to recommendations to create a fairer system and to remove the self-policing aspect and the secretive insular nature of the SLCC.

**Unique web address**
http://www.parliament.scot/GettingInvolved/Petitions/PE01660

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