

PE1458/X

Letter from Petitioner Peter Cherbi re: Petition PE1458: Register of Interests for members of Scotland's Judiciary

Response to letter from Lord President 21 February 2014

While the Lord President's move to enable the collection and publication of recusal data is a welcome step in the right direction, and could have been achieved earlier, this falls far short of the requirements of registers of interests which operate in other walks of public life & Government.

The Lord President states **"Court Clerks will inform the Judicial Office for Scotland when a judge or sheriff has to recuse. The reason for recusal will be provided. The fact of recusal and the reason for it will appear on the Judiciary of Scotland website."**

This method of disclosure will produce only an incomplete picture of judicial interests, and therefore not one which will enable the public, court users and others to scrutinise the judiciary and use such information in an informative or necessary way to raise questions on a judge's wider interests.

It is an important point to make that many recusal requests are either refused or not even raised in court due to the lack of current information on judges interests or the case where legal representatives refuse to raise a recusal issue with the judge, even when asked to do so by their client. Therefore the Lord President's move to publish recusal data in the currently proposed format, will not be a true indicator of how recusals are dealt with, currently, or historically in the Scottish courts.

Members of the Petitions Committee have already heard from the Judicial Complaints Reviewer Moi Ali, who informed the Committee she had heard from members of the public who said **"that they felt that there should have been a recusal but it did not happen."** The JCR also stated in her evidence last September **"A register is another strand that would sit above the judicial oath and which would list things that it might not cover, such as family relationships, membership of organisations that might be seen as incompatible, and friendships."**

"There is a wide range of issues and it is difficult to itemise them all. Issues have been raised with me through complaints. Members of the public have felt that a host of things are undeclared, that unless we go out and look for them, we will not necessarily know about them, and that, if a register of interests was published, people could simply refer to one point and assure themselves that,

if a recusal was necessary, they would have the information to ask for that if it did not happen automatically."

I support Moi Ali's comments entirely and believe the best way forward is the creation of a register of judicial interests, which is both workable, and necessary in terms of transparency, given the position of members of the judiciary and Lord President as head of the courts system.

I therefore urge the Petitions Committee to continue exploring avenues for a full register of judicial interests and to help establish how parts of the courts system already cope with registers of interest, I urge members to call in the Scottish Court Service to attend an evidence session to discuss the operation of SCS staff register of interests which has existed for a number of years without any difficulty.

It may also of significant benefit the Committee to hear in public from a person who's life has been impacted by a lack of judicial recusals, a failure of legal representatives to raise recusal issues, and a lack of a register of judicial interests. As written evidence on such a case has been given to the Petitions Committee by Mr William Beck, I suggest members request Mr Beck to give evidence to the full committee.

Peter Cherbi
Petitioner PE1458