Executive Summary

For a period of over 12 months, beneficiaries from England and Australia received totally unacceptable service from a firm of Scottish rogue solicitors when a family member living in Scotland died unexpectedly. Subsequently, over 30 complaints were lodged with the SLCC with substantial evidence provided, in the anticipation that the complaints would be investigated fully in a fair and independent manner, as claimed on their website. After nearly 2 years of inefficiency, broken promises and delays, the SLCC managed to rule that the solicitors acted in the best interests of the beneficiaries and their honesty was largely beyond question.

In April 2017, the Roberton Enquiry was charged with carrying out an independent Review of the regulation of legal services in Scotland, and reported in October 2018. The Review was chaired by a well-respected administrator, supported by a panel composed entirely of the Scottish legal and administrative elite, with no representation from the Public. While the Report recognised that the present system of legal regulation and complaint was too complex, inefficient and not consumer friendly, it crucially comprehensively failed to identify the Public’s concern that the current system of handling complaints was a dishonest one-sided insular legal placebo, actively working to exonerate solicitors and lawyers of all wrong doing, against the Public good.

The lack of clarity regarding the mendacious shortcomings of the present complaints system and the recommendations to set up a new body along contemporary lines, severely jeopardises the Public’s access to any justice when complaining about solicitors and lawyers in the future.

We wish to support Petition PE01660, and recommend a truly independent review of current practices carried out by a respected and trusted representative of the Public, to avoid any repetition of the present cynical, elitist and corrupt systems.

Solicitor Experience

We received very unsatisfactory service from a large firm of solicitors in Scotland for a period of over 12 months, when they took unwanted improper control of the executry of a late family member who had moved to Scotland some 40 years ago. The solicitors exploited their position to cause great distress to next of kin and unscrupulously generate a very significant amount of unnecessary work, by the use of systematic stratagems to pay themselves and extend the duration of the administration over twice as much as usual.

A few typical complaints against the solicitors lodged with the SLCC were:

- Although the solicitors knew of the death of the family member and the contact details of the next of kin, beneficiaries and family executor within 5 days of
death, they refrained from making any contact until three weeks later and after
the family member’s funeral,
• Took instruction from an unknown Scottish based executor before the Will was
located and the wishes of the deceased family member confirmed,
• Did not contact the family executor as to how the executry was to be managed,
• Effectively prevented the next of kin from visiting the family property in Scotland
for over 4 months, and then only under solicitor chaperone at an unnecessary
significant cost to the beneficiaries,
• Left the family property uninsured for two weeks, despite several reminders
from the insurers,
• Created ongoing deliberate and unnecessary delays of over 5 months to obtain
Confirmation,
• Accepted a valuation for the property at nearly twice the market value, aimed
at obtaining extra work in a subsequent IHT38 tax refund application. In any
case, a further 6 months of delay were experienced trying to sell the property
at unrealistic asking prices to demonstrate to HMRC what the real market value
of the family member’s property was,
• Held very significant sums of estate funds in the solicitor’s account for nearly
three months whilst they delayed payment of inheritance tax and receipt of
Confirmation,
• Wrote to the Australian beneficiary after three months that they were still in the
early stages of determining the value of the estate, when in reality they knew
99.9% of the estate value,
• Initiating considerable work on the property for the benefit of neighbours without
any notification,
• A total of over 90 other deliberate false statements and actions.

SLCC Experience

We approached the Scottish Legal Complaints Commission (the SLCC) with our
complaints and for nearly two years endured their dishonest, disorganised and sham
systematic one-sided procedure and decisions from so-called Investigators. There
was no investigation, merely a repeat of what their solicitor ‘clients’ stated in their re-
organised files and new file notes, which were taken as fact:

Despite providing substantial and prima facie evidence, the SLCC effectively
dismissed all but two of the complaints, which were passed on to the Law Society, by
means of:
• Ignoring the complaint or the evidence provided - 9 off,
• Creating falsehoods, redefining normally accepted terms / conditions of business, etc
• Cover-up of solicitor wrong doing & blatant scams - 13 off,
• Deemed to have no impact (e.g. delays of up to 11 months, HMRC fine for late tax submission beyond the 6 months limit, etc) - 3 off

The SLCC made a derisory nominal ex gratia payment for any stress they may have
caus ed the family.
The SLCC claim to be *fair* and *independent* in handling complaints against solicitors, but in practice, I believe the SLCC are totally focussed on clearing the solicitors of any blame. It is my view that there is clear evidence to suggest the SLCC have not demonstrated it is fair or independent cheating the Scottish public and others from around the world who do business in Scotland (and their own family and friends) from any justice. The outrage felt by being cheated by the legal profession and again by the SLCC is profound.

Without effective policing, the quality of solicitor service to the public in Scotland is predicted to decline further, and the number of complaints to the authorities empowered to handle them will continue to rise.

**Case for a Review of SLCC Operation**

1. We do not agree that the Roberton Report’s vision promotes a system of regulation and complaints handling for legal services in Scotland that is ‘Fit for the Future’.

The above summary of our experiences supports views quoted in the SLCC Consumer Panel’s submission to the Independent Review of Regulation of Legal Services in Scotland (but ignored by the Roberton Report):

(a) “Stop believing that lawyers tell the truth. Believing the lies and deceit gathered from lawyers is NOT an investigation.”

(b) “I feel the SLCC is a body that is set up to appease the public who wish to complain against a solicitor or firm but have no real powers or authority and is in fact a body to protect the legal system and dishonest lawyers.”

(c) “The SLCC Consumer Panel’s view is that there is scope for a greater level of public engagement than has been included in the Review (Report). While widespread engagement has been made with the legal profession, there appears little input from those who use legal services (the Public). This may mean that any final analysis is unlikely accurately to reflect consumers’ views and concerns and may not identify what requires reform.”

AND, currently on the SLCC website under the 2016 -20220 Strategy Consultation:

(d) “So, the Solicitor gets to see the whole complaint by the complainant but the complainant does not get a chance to examine or challenge the solicitor’s response, instead the solicitor’s response is taken as fact. This is a bit like having a court case & not allowing the prosecution to cross examine the defence witness, merely accepting their testimony as the truth. . . It is my contention therefore that the SLCC, prior to making any decisions, should make the solicitor’s response available to the complainant for comment to ensure that the response is factual & complete, the current process is flawed & slanted in favour, in my opinion, of the solicitor.”
The SLCC have conceded in writing that they do indeed carry out their ‘investigations’ without evidence from the complainant.

2. Whilst the Roberton Report quoted extensively the views expressed by the existing legal bodies, societies and institutions, there was no attempt to provide a balanced view and identify the current position authoritatively. The few members of the Public who cared or dared to submit their views to the Review were ignored, like the ‘embarrassing’ comments from the SLCC Consumer Panel’s submission.

It is difficult in the first place for the Public to contemplate complaining about solicitors, writing letters to the SLCC, waiting many months/several years and remaining focused/calm over these long periods. Sleep deprivation, changes in procedure from that advised and enormous anger when complaints are dismissed for totally spurious, partial or nonsensical/incompetent reasons are factors.

Members of the Public who have been cheated once by rogue solicitors and again by the SLCC will be loathed to relive the mental stress they are trying to come to terms with, by contributing their painful experiences again to any review.

Solicitors and other ‘expert’ professionals have no need to be so reticent: it is their livelihood, a normal day at the office and they are largely ‘sand-bagged’ against reproach by their fellow legal professionals employed as so-called Investigators at the SLCC.

3. Looking through the Roberton Report, ‘Fit for the Future’, whilst we agree with the content which covers aspects of creating an improved streamlined Regulator for the benefit of the Scottish Public (plus those in the rest of the world who use Scottish legal services), the following limitations apply:

(a) The Review panel members were all drawn from elite professionals with a very significant legal presence, with little real contact with the everyday concerns of the Public. A few members of the Public or the odd practical professional engineer on the panel would have been very beneficial.

(b) The very few members of the Public who did contribute to the Review in the limited Call for Evidence were very critical about the integrity of the present complaint bodies and the lack of justice received. The Report ignored or generalised these comments. Chapter 4 was skewed towards the views of the legal (including SLCC) profession and similar elite.

(c) The Report failed to authoritatively and clearly identify the failings in the current complaints systems – the Report suggested there were perceived problems with complexity, long delays and lack of transparency, but nothing clearly defined.

According to Terry Pratchett & Lewis Carroll:

“if you don’t know where you are, then you don’t know where you’re going. And if you don’t know where you’re going, any road will get you there.” . . . and you risk ending up where you started.
(d) The Report opened up the distinct possibility that redundant (and failing/corrupt) personnel at the existing complaint organisations could be shuffled sideways into any new Regulator, and it could be business as usual again. Looking at the front cover of the Report, it seemed the Report focussed more on the ‘access’ and not enough on the Public’s main concern of ‘to justice’. This is true fair and independent justice; not any SLCC PR pretence and a corruption of the meaning of these words. The lessons of the past need to be heeded not repeated.

(e) Ref. pages 12 & 13: the sentence which spans these pages should read, “The Commission (SLCC) was set up as a neutral body to operate independently of the Scottish Government and of the legal profession.” We assert that the SLCC not neutral, has not demonstrated that it is fair or independent and operates insularly, without any effective audit, skewed in favour of the legal profession, providing no justice. Without effective policing, that is why the number of public complaints about solicitors is reported to be rising.

(f) Ref. page 35. The Report states that the new Regulator should be funded by the lawyers, as at present. Clearly the Roberton Report did not understand or want to understand what is happening very often. Lawyers paying for a body of legal staff to judge the lawyers who are in conflict with the Public is always going to be perceived as, “he who pays the piper calls the tune”, as at present.

(g) The constitution of the Board and members of a new Regulator, as recommended by the Report, appears to mirror the present situation: half legal, half elite professionals with an elite high-flying chair. There is no-one representing the Public and objectively auditing the decisions of the regulator. It will be business as usual with the creation of an unjust and unaccountable monster, as at present.

(h) The present Board of the SLCC are either blind or turn a blind eye to what we assert is happening within the SLCC – largely working against the Public.

Conclusion

We have found the assertions implicit in petition PE01660 to be largely correct, and it is imperative that any new regulator should not have any public complaints system based on those currently in force or with the present failed management personnel in charge.

A truly independent investigation having public confidence is consequently essential, tasked with reporting on the operation of the SLCC. The Chair must not be an elite public or legal administrator. There are other professions who are very able to carry out rigorous investigation, and who have the integrity to report correctly and honestly.

We support the petition and would contribute accordingly to any correctly constructed review.