

Katie Hagmann MSP
Convener
Equalities, Human Rights & Civil Justice Committee
Scottish Parliament
EDINBURGH
EH99 1SP

By email only: EHRCJ.committee@parliament.scot

15 September 2026

Dear Convener,

At the committee's meeting of 3 September 2026, our Head of Policy Jennifer Paton agreed that the Law Society would follow up a question asked by Megan Gallacher MSP on the Regulation of Legal Services (Scotland) Act.

Ms Gallacher asked, *"One of the potential unintended consequences of the Regulation of Legal Services (Scotland) Act 2025 relates to the Scottish Legal Complaints Commission. There are still unresolved concerns about the independence of the SLCC because of its extended remit, and there is also the accountability aspect. Practitioners in the legal profession are concerned about that. What are the panel's views are on that? Should we look into it again?"*

Under the 2025 Act, the SLCC assumes a range of new and enhanced powers. This includes new powers under sections 69 and 71 to direct our operations in relation to investigating and determining conduct and regulatory complaints.

One area in which we raised significant concern was the new power to direct the Law Society to introduce a 'minimum standard' on the profession. This would be delivered by way of changes to solicitor and/or authorised legal business practice rules.

During discussions with the Scottish Government, we accepted this provision but explained why we needed some mechanism for when the SLCC made a direction that the Society believed was clearly not appropriate.

The Bill did not provide a route or process for us to challenge or appeal the requirement to bring in minimum standards before the process for implementing that minimum standard commenced.

This was not a theoretical problem. The SLCC has at times in the past issued reports and recommendations to the Law Society which would have had serious and negative consequences for consumers.



We advocated for an early mechanism for those occasions when we, for good reason, do not agree with the proposed minimum standard as the only option under the Act would be to raise a Judicial Review action. This would be disproportionate, costly and time consuming for all parties, and would not reflect well on the reputation of the legal profession and regulatory stakeholders.

At the time, we were grateful to Paul O' Kane who tabled amendment 135 at Stage 3 of the Bill. This would have provided a power to challenge an SLCC minimum standard through an independent process via the Lord President's Office. We believe this would have provided a more reasonable, less confrontational process than a judicial review challenge. Regrettably, this amendment was defeated by 67 votes to 48.

Thanks to amendment 137 tabled by Tess White and agreed by the parliament, there will be a statutory review of the Act no later than 10 years after the commencement of Parts 1-4 of the Act. We believe this will provide a useful mechanism to consider this matter again.

It should be noted that, under the Act, the Lord President assumes a range of new and important oversight powers over the Law Society and other regulators. This includes the power to direct a regulator to take action and to set performance standards. However, the SLCC is not covered by this provision.

Again, this may be something the statutory review may wish to consider in due course.

In the meantime, we are considering the SLCC's live consultation on their oversight approach under the 2025 Act and will respond to that consultation by the deadline of 18 November 2026.

I hope this information is helpful to the committee.

Yours sincerely,

Kevin Lang
Executive Director of External Relations