

**Scottish Legal Complaints Commission**  
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**Mr Bob Doris MSP**  
**Ms Marie McNair MSP**

Sent by email only: [Bob.Doris.msp@parliament.scot](mailto:Bob.Doris.msp@parliament.scot); [Marie.McNair.MSP@Parliament.scot](mailto:Marie.McNair.MSP@Parliament.scot)

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**Our ref:** McClure Solicitors  
**Reply email:** [neil.stevenson@scottishlegalcomplaints.org.uk](mailto:neil.stevenson@scottishlegalcomplaints.org.uk)

Dear Bob and Marie,

Thank you for your letter of 21 December.

We have been pleased to see MSPs supporting the public on this difficult issue and will help in any way we can.

I've tried to respond to the questions from your letter below, but if it would be easier for us to meet with you, or someone in your team, to explain any issues further please let us know.

***It would be helpful if you could provide some information on the complaints that you have received to date on McClures Solicitors. How many complaints have you received thus far? How many of these complaints were service related and how many were conduct issues? Of the service complaints you have received, how many of these have been upheld?***

***On average, how long has it taken to assess a McClures complaint, and does this differ markedly from a non-McClures complaint?***

I am afraid by law we are not allowed to provide this information.

The Scottish Parliament made it a specific criminal offence for the SLCC to divulge information from complaints.

I should note, the SLCC itself would prefer wider discretion to discuss issues in cases where there is a public interest issue or a matter of public protection. We have asked for many years for legislative reform, and some progress is made on this in the

current draft Bill in parliament. We're grateful the Scottish Government have been open to addressing this issue.

We focus on an approach based on public interest as this avoids the cost and unintended consequences of publishing all decisions. For example, at the moment the majority of cases are resolved by us helping the parties reach an agreement (rather than us issuing a formal decision). This can quickly get work put right and compensation paid, helping the consumer. However, firms are not necessarily admitting liability. A move to publication of all outcomes might make firms reticent to do this driving up costs and timescales and delaying matters being fixed for individual clients.

However, a right to publish when there is a clear public interest or protection issue would let us comment on cases such as McClure where it is clear there should be greater transparency about what has gone wrong and how various bodies are working to help.

Often I would not even be able to confirm we had received complaints about a particular firm. However, in this case I am aware some complainers have spoken about their experience of taking a complaint to the SLCC in public. This makes our usual statement of 'I cannot confirm or deny' pointless, but it does not remove the statutory prohibition on providing any other details not already in the public domain.

What I can say is that we would encourage anyone with a concern to make contact with us. Where there is any possibility of a valid complaint we would then encourage them to make that complaint, and we can then assist individuals as much as possible. We work with thousands for members of the public a year, and award significant redress each year, so whilst we don't uphold every case people should have confidence we will where there has been a firm failing (against the standards set by the Law Society, which we are required to apply).

Those contacting us should hear back almost immediately. Information on average times at each stage for the statutory process is on our website, and these are updated regularly to reflect current workloads. See <https://www.scottishlegalcomplaints.org.uk/your-complaint/frequently-asked-questions/> and the 'How long does it take' heading.

I would note, we can help many people much faster than these average timescales, but other cases will take longer. At each stage individual complainers will be told how long the next step will take for them, and when we'll contact them next.

***Can I also ask whether any compensation award would include reimbursement for service that was deemed poor, incompetent or negligent, and indeed compensate for the financial outlay to subsequently correct any errors?***

We are required to judge each case on an individual basis. However, yes, we can and do award compensation for all of the above.

The fact we can make these awards is one of the reasons I would encourage anyone impacted to speak to us. I really believe we may be able to assist at least some of the people you will have spoken to.

On a technical level I should perhaps note we cannot assess 'negligence' which is reserved to the courts, but we can award up to £20,000 for 'inadequate professional services'. For the consumer this gives a similar outcome unless their claim is above our limits.

***I would be keen to know whether the SLCC has the operational capacity to manage and process the complaints that have been made thus far. Given only a small percentage of clients may be aware of these issues, can you advise whether you believe the SLCC has the capacity to deal with an increase in submitted complaints going forward?***

We have had the operational capacity to process all current complaints. We have improved our complaint handling time significant over the last few years, including further improvement noted in our annual report this year. Without breaching any confidentiality placed on us by Parliament about any McClure complaints I think this illustrates we have capacity for the current work.

There is no doubt large and sudden volumes of complaints would cause issues. However, I hope I can provide some reassurance on this front too.

Firstly, each year we collect a new levy from the sector, if complaints increased we will have to levy more to resource that, and we are required to do so by law. This means a sudden steep increase may have a short-term impact on performance but in the medium term we can address that.

Secondly, if complaints are similar, we can, to some extent, design specific pathways for those complaints. We have to be careful individual facts and circumstances are still looked at, but we do have experience of such 'fast tracks'. We can also work with those that provide insurance to the profession, who are also often open to 'fast track' processes as these can also save cost (as well as being good for practitioner and consumer).

Finally, we think even if there is a potential large volume these will materialise over time (rather than say, all coming in within six months). This gives us time to resource up or create new approaches.

None of this is to say that there is not a huge potential challenge (for example, recruiting people with the necessary skills), but we have considered this and are as prepared as we can be. We cannot see anything further Scottish Government can do (other than reform, see below), but we know they are also monitoring the situation and we would contact them if we felt there was help that could be provided.

The current proposed reforms to legislation on the regulation of legal services would give us even more flexibility to create a dedicated pathway to make sure these issues could be handled smoothly and efficiently for all.

Such reforms are not likely to be retrospective, but would assist with complaints from the date any new legislation is implemented. We've appreciated the positive engagement of civil servants and the Minister in seeking to improve the system for consumers.

***When assessing a number of complaints, where the SLCC see a pattern of behaviour emerging- be that institutional malpractice or potential criminality- can I ask if the SLCC would pass details on to Police Scotland for further investigation***

This is difficult for us to comment on due to the strictures the legislation places on disclosure of information.

What I can say is that we have a statutory duty to look at trends in complaints. Where we have seen a pattern of concern we will raise this with the Law Society of Scotland. Where we see a significant concern we will formally (in writing) ask them to raise a complaint with us in their own name (they have the power to do this) to let us act. However, when we do this it is then a decision for the Law Society on whether they act.

Without a complaint which specifically raises concerns about broader organisational issues, patterns or systemic issues we have no ability to act even if we have evidence in our possession which suggests these. If such a complaint is not raised we can only look at each individual case, from each individual complainer.

Again, under the proposed reform the SLCC should get a power to raise complaints in its own name. This was based on an anticipation of issues such as McClure Solicitors based on past experience of firm failures.

You also ask about criminality. Under the legislation we are not allowed to look at issues of conduct other than to assess whether there is something to pass to the

Law Society. Anything that might even be close to criminal behaviour, therefore, is a matter the legislation disallows us from considering the merits of. It would therefore be for the Society to consider, and they will be able to tell you their policy on referral to the police.

As I said at the start, if a conversation or further information would assist please do just let me know. We'd also be more than willing to attend a joint meeting. I appreciate in this correspondence I've referred to the role of others and its sometimes easier to have the conversation 'all in one go' with everyone involved together.

Yours sincerely,



Neil Stevenson

**Chief Executive**

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