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Mr Shane McAteer
Clerk
Committee for Finance and Personnel
Room 419
Parliament Buildings
Stormont

Our Ref: CFP/374/11-15

12 November 2014

Dear Shane,

LEGAL COMPLAINTS AND REGULATION BILL

Thank you for your letter of 23rd October 2014 relating to the above Bill, and the accompanying papers from Assembly Research. The Department has had the opportunity to consider the documentation and the Committee's request to further examine the Scottish model in relation to the handling of both conduct and service complaints.

The briefing provided by Assembly Research has been noted by the Department, which was aware of the various models throughout the jurisdictions prior to the circulation of the consultation document relating to the draft Bill. That consultation revealed a strong level of support for the model outlined in the Bill, which is based on the report by the Legal Services Review Group. That report emphasised the fact that Northern Ireland is a separate jurisdiction, which whilst sharing some characteristics with other jurisdictions, required a tailored approach to deal with the issues that had been raised locally.

The architecture of this Bill is therefore very different from the models outlined by Assembly Research in Scotland, and indeed England and Wales. The Committee has asked specifically whether the Bill can be tailored to apply some aspects of the model in Scotland, for handling both conduct and service complaints.

Scotland has gone down the route of having a fully independent complaints handling body, the Scottish Legal Complaints Commission (SLCC). It did so having carefully considered the landscape for complaints in that jurisdiction, taking into account a range of factors. The Legal Services Review Group and the Department undertook a


similar exercise and concluded that a fully independent body would be, *inter alia*, a disproportionate response to the issues relating to complaints handling in this jurisdiction. The Committee has received a number of briefings from Departmental officials and others on this point, and the arguments are well set out in both the report of the Group, and the consultation document itself.

To incorporate similar provisions to the Scottish model in the Bill would therefore not be consistent with the architecture of the Bill as drafted and would be a considerable policy shift from that outlined in the consultation. However, it is worth noting that the specific point raised by the Committee – whether conduct and service complaints can be handled together – is one that is, to an extent, addressed already in the Bill. The research paper correctly identifies that the SLCC can initially consider both conduct and service complaints, but it must refer conduct complaints to the relevant professional body. In the model envisaged by the Legal Complaints and Regulation Bill, conduct complaints will usually be made directly to the relevant professional body. However, a complainant can bring a complaint which may involve both service and conduct issues to the relevant Complaint Committee. As in Scotland, that Committee will consider the service element of the complaint, but it will also be able to refer the conduct element to either the Law Society or the Bar Council.

While the Bill does not give the Legal Services Oversight Commissioner a direct role in relation to how conduct complaints are handled, the office holder will have a say in relation to rules relating to conduct and other regulatory matters. This reflects the proposals in the report of the Review Group and the outcome of the subsequent consultation.

On a more general note, officials are in the process of finalising the draft Bill and I would expect that this will be circulated to you in the coming weeks.

Yours sincerely,

A handwritten signature in dark ink, reading "Gearoid Cassidy". The signature is written in a cursive, slightly slanted style.

GEAROID CASSIDY
Departmental Assembly Liaison Officer



COMMITTEE FOR FINANCE AND PERSONNEL

Gearóid Cassidy
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23 October 2014

Dear Gearóid

Legal Complaints and Regulation Bill

At its meeting on 22 October 2014, the Committee for Finance and Personnel received a follow up briefing by Assembly Research on various issues in relation to the forthcoming Legal Complaints and Regulation Bill.

The Committee agreed to forward the two research papers (**attached**) to DFP for information and a response as applicable. In particular, the Committee would wish to establish the potential for the forthcoming Bill to apply some aspects of the model in Scotland for handling both conduct and service complaints, in terms of the statutory functions of the Scottish Legal Services Commission in this regard.

I would be grateful for a response by Thursday, 6 November 2014.

Yours sincerely

Shane McAteer

Shane McAteer
Committee Clerk

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