



EXTRA DIVISION, INNER HOUSE, COURT OF SESSION

[2026] CSIH 12  
XA48/25

Lord Matthews  
Lady Carmichael  
Lord Braid

OPINION OF THE COURT

delivered by LORD MATTHEWS

in the cause

PATRICK HENRY MCAULEY

Applicant

for

leave to appeal a decision of the Scottish Legal Complaints Commission

**Applicant: Party**

**Respondent: McGregor KC; Harper Macleod LLP**

17 March 2026

**Introduction**

[1] Mr Patrick Henry McAuley wishes to appeal a decision of the Scottish Legal Complaints Commission under section 2(4) of the Legal Profession and Legal Aid (Scotland) Act 2007 dated 16 May 2025 that a complaint made about him was not “frivolous, vexatious, or totally without merit”. In terms of section 21 of the 2007 Act, he may only do so with the leave of the court and on one or all of the following grounds:

“(4) [...]

(a) that the Commission's decision was based on an error of law;

- (b) that there has been a procedural impropriety in the conduct of any hearing by the Commission on the complaint;
- (c) that the Commission has acted irrationally in the exercise of its discretion;
- (d) that the Commission's decision was not supported by the facts found to be established by the Commission."

Before granting leave to appeal, we must be satisfied that there is a "real prospect of success" or there is some other compelling reason for the appeal to be heard (*Williams v SLCC* [2010] CSIH 73 at paragraph 7).

[2] The decision challenged by Mr McAuley is an eligibility decision made by the Commission under section 2 of the 2007 Act. Section 2 decision-making has been the subject of repeated comment by this court, summarised most recently in *Levy & McRae Solicitors LLP v SLCC* [2025] CSIH 23, 2025 SLT 1025 at paragraphs 43 – 44. We may take the principles shortly.

[3] First, the Commission's function in taking the preliminary steps set out in section 2 is to sift complaints, not determine them. The relevant professional bodies are best placed to evaluate practitioners' conduct. Second, a complaint should only be dismissed as totally without merit where referral to the relevant professional body would be a waste of time. That is because, third, "totally without merit" (my emphasis) is a very high test, resulting in a very low threshold for eligibility. Fourth, absent an identified error of law or procedural impropriety, the court should not substitute its view on eligibility unless the Commission has acted irrationally. Finally, the Commission, as the specialist body entrusted by the Scottish Parliament to sift complaints, should be afforded a degree of institutional respect in taking decisions within its area of competence.

## **The complaint**

[4] Against that backdrop, the relevant facts are as follows: In August 2024 the Dean of the Faculty of Advocates complained to the Commission about Mr McAuley's conduct. In September 2024 the Commission determined the complaint eligible and passed it to the Law Society of Scotland for investigation. Mr McAuley sought leave to appeal against that decision and was refused leave in February 2025. Following that decision, Mr McAuley corresponded further with members of the Faculty of Advocates. That correspondence forms part of the present complaint, which is to the following effect:

- i) Mr McAuley, on 8 and 9 February 2025, repeatedly and baselessly accused the Dean of Faculty and the Chairman of Faculty Services Ltd of fraudulently falsifying that they had explicitly referred to evidence in the August 2024 complaint.
- ii) On 9 February 2025 Mr McAuley made vexatious threats to comment publicly online and in leaflets to persuade other legal professionals to agree with his demands.
- iii) On 19 and 22 February 2025 Mr McAuley:
  - a. Baselessly accused the Dean and the Faculty of racism;
  - b. Baselessly accused the Faculty and Faculty Services Ltd of secretly conspiring against him and committing a criminal offence under section 248 of the Companies Act 2006;
  - c. Baselessly accused the Faculty and Faculty Services Ltd of conspiring to falsify documentation;
  - d. Baselessly accused the Dean of defaming him;
  - e. Baselessly accused the Dean of being mentally unwell;

- f. Baselessly accused the Dean of harassment; *and*
- g. Baselessly accused the Faculty and Faculty Services Ltd of conspiring to deny him *pro bono* representation.

A further issue relates to Mr McAuley's application for a practising certificate (see *McAuley v Council of the Law Society of Scotland* [2025] CSIH 7, 2025 SLT 377).

- iv) Mr McAuley failed to act with trust and personal integrity when he applied for a practising certificate by citing cases he had pursued in support of his application but neglecting to mention *McAuley v Ethigen Ltd* 2023 SLT (Tr) 125 in which an Employment Tribunal described his conduct as "scandalous, vexatious, and unreasonable."

The complaint bears to be signed by the Dean on behalf of the Office Bearers of the Faculty.

### **The application for leave**

[5] Mr McAuley challenged the decision on the basis of 14 separate "pleas-in-law". We shall outline and address each in turn.

#### ***Plea-in-law 1***

[6] First, Mr McAuley submitted that the Commission lacked "standing". *D & J Nichol v Dundee Harbour Trustees* 1915 SC (HL) 7 was authority for the proposition that a party must have title and interest to sue. The Dean confirmed that he was not seeking compensation. The value of the complaint being nil, there was no "interest" to permit the Commission to "sue over this as a 'conduct' complaint". Mr McAuley asserted that raising a complaint "worth £0.00" is impermissible since *de minimis non curat lex* ("the law does not concern itself with trifles"). With reference to *Meadows v Khan* [2021] UKSC 21, [2022] AC 852,

Lord Leggatt at paragraphs 97 – 98, he contended that the “basic loss” had not been determined or established. Reliance was also placed on *The Council of the Law Society of Scotland v Scottish Legal Complaints Commission* [2010] CSIH 79; 2011 SC 94. The complainers were not seeking damages and the case did not pass through the metaphorical gateway which Mr McAuley postulated.

[7] This argument proceeds on an erroneous equivalence between the legal principles applicable to *inter partes* litigation and those applicable to the discharge of functions by a statutory regulator. The Commission was established by statute (section 1, 2007 Act) as a gateway body to sift complaints. The legal basis for its powers is the 2007 Act. Concepts such as “standing”, “title” and “interest” are inapplicable to the discharge of functions by a statutory body. As far as the *Council of the Law Society of Scotland* case is concerned, the court’s reasoning had nothing to do with the fact that damages were not being sought. As is clear from *R (Remedy UK Ltd) v General Medical Council* [2010] EWHC 1245 (Admin), there is no requirement for a complaint to have monetary value.

### ***Plea-in-law 2***

[8] Mr McAuley then submitted, with reference to a number of authorities, including Lord Emslie’s well-known definition of professional misconduct in *Sharp v The Law Society of Scotland* 1984 SC 129 at pp 134 – 135, that “a complaint worth £0.00” could never clear the low threshold for eligibility. There was no pecuniary loss, no injury, and no *solatium*. Absent same, the *Sharp* test could not be met. The impugned conduct could not be said to be serious and reprehensible if it was of no value.

[9] Again, this argument is wrong in law. There are many circumstances where conduct which results in no pecuniary loss might nevertheless represent a departure from the

standards of conduct. Contempt of court could be one example. Despite referring, as we have said, to a number of authorities, Mr McAuley failed to produce any which supported this radical interpretation of the *Sharp* test. There is none.

### *Plea-in-law 3*

[10] Mr McAuley submitted that the Commission had failed to send him notice of a specified regulatory scheme in breach of section 3 of the 2007 Act. The scheme under which the complaint was being made was such a scheme. Furthermore, he was not sent a copy of a Preliminary Eligibility Decision dated 25 April. This was a procedural irregularity. The Commission's position was that the Preliminary Eligibility Decision was sent to him but they had produced no evidence of this. Reference was made to *Federico Garcia Lopez de la Torre v Scottish Legal Complaints Commission* [2023] CSIH 12 and *Kidd v Scottish Legal Complaints Commission* [2011] CSIH 75.

[11] In the first place, the submission about a specified regulatory scheme under section 3 is misconceived. As is explained in the explanatory notes, such a scheme, which has to be specified by the Scottish Ministers, would be something like the Financial Services Ombudsman scheme, for practitioners dealing with investment business and the like. It would make no sense for the general scheme to be entailed, since that is set out in the Act, not in terms of subordinate regulations.

[12] There is no requirement in the 2007 Act for the SLCC to send a PED to the practitioner. In general, however, the Commission ought to afford the practitioner an opportunity to put forward "an immediate and instantly verifiable complete answer" to the complaint, if he can (*Kidd* at paragraph 10).

[13] We do not require to decide the factual dispute between parties and we proceed on the assumption that Mr McAuley did *not* receive the PED. We note that Mr McAuley, at paragraph 41 of his appeal, states that had he received the PED he “would have confirmed a settlement had been reached of £0.00, so the matter was finished. He would also have defended it that the complaints were ludicrous with no basis in fact nor law (*sic*)”.

[14] As we have noted above, the assertion that a complaint may not proceed absent pecuniary loss is wrong. There was no “settlement”, in the sense of an agreement between the Dean and Mr McAuley to withdraw the complaint. Applying the principles outlined in *Levy & McRae LLP*, we consider that the Law Society is best placed to evaluate whether a complaint is “ludicrous” or otherwise. There has been no attempt by Mr McAuley to put forward an answer to the complaint which would have nipped matters in the bud and therefore we can detect no prejudice to him.

#### ***Plea-in-law 4***

[15] Only members of the Commission may make a determination under section 6 of the 2007 Act. This was underlined by Schedule 1, paragraph 13(2)(a). See also *Wilson v Scottish Legal Complaints Commission* [2024] CSIH 40; 2025 SLT 1. While that case dealt with a decision to dismiss a complaint as being frivolous, vexatious or totally without merit, it was clear from what was said that any weighty decision would have to be taken by a commissioner. A decision to remit a complaint to the Law Society was a weighty matter for a practitioner because of the expense and the professional consequences: see the *Council of the Law Society* case. However, the eligibility decision had been taken by TP, an employed Case Investigator. TP’s involvement breached section 3 of the Human Rights Act 1998

because only “sufficiently skilled” people could take administrative decisions per Article 6 ECHR.

[16] The Commission’s powers of delegation were authoritatively considered by this court in *Wilson*. Schedule 1, paragraph 13(2)(a) requires that any decision to reject a complaint as “frivolous, vexatious, or totally without merit” must be authorised by a member of the Commission. That is because such a peremptory rejection is “a weighty matter”. However, the reverse is not true.

[17] There is no requirement for Case Investigators to be legally qualified. As the Commission noted, the involvement of lay persons is a deliberate policy choice which underpins the 2007 Act (see *Sneddon v Scottish Legal Complaints Commission* [2015] CSIH 62, 2016 SC 36). A decision under section 2 is a sifting decision which does not determine the practitioner’s civil rights and obligations such as to engage Article 6. No finding of professional misconduct can be made other than by the Scottish Solicitors’ Discipline Tribunal, which is an expert quasi-judicial tribunal. While there will be consequences when any complaint is remitted, a decision that a complaint is frivolous etc brings it to an end and one can see why the schedule specifically refers to it. A decision simply to remit is a procedural one, as envisaged in *Wilson*. Had Parliament intended that such a decision only be taken by commissioners it could easily have said so. In any event, the requirements of Article 6 are satisfied by the existence of a right of appeal to this court.

#### *Plea-in-law 5*

[18] Mr McAuley complained that there was no reference to “quality assurance” in the eligibility decision. In addition, the same person who gathered the evidence should not be making the decision.

[19] There is no requirement in the Act that an eligibility decision contain an explicit reference to quality assurance. Furthermore, the sifting decision is merely of a procedural nature and does not go into the merits of a complaint. The argument is misconceived.

*Pleas-in-law 6 and 7*

[20] Mr McAuley submitted that the Dean had improper motivations for the complaint, which was vexatious. It was also totally without merit. Mr McAuley has raised Competition Appeal Tribunal proceedings against the Faculty (see *McAuley v Faculty of Advocates* [2025] CAT 61). The purpose of the complaint was to gain a collateral advantage in those proceedings. The Commission was being “extremely disrespectful” to the Competition Appeal Tribunal Judges. The complaints process was “forbidden” from being used in this manner. In addition, the Dean had displayed anti-Catholic bigotry by using the term “papist” in a post on X (formerly Twitter). The Commission was thus bound to dismiss any complaint emanating from him about a Catholic solicitor like Mr McAuley. Reference was made to the SLCC Policies at 3.7.19 which lists some of the characteristics of vexatious complaints. There may be an intention to cause trouble or annoyance or harassment of the practitioner; the complaint may be made in bad faith, out of malice or for an ulterior motive; it may be petty, repetitive or about the same practitioner; it may display unreasonable demands on the legal profession or the SLCC; it may be an abuse of process; and it may be from one practitioner against another and be simply a tit-for-tat complaint. In any event, the complaint had been settled and was worthless.

[21] Once again, Mr McAuley proceeds on the misapprehension that it is for the Commission to determine the substance of the complaint. None of the authorities to which he referred is in point. No doubt if a complaint was vexatious on the face of it then a

commissioner would take appropriate action, but we can see nothing which meets the criteria on our reading of the complaint and the SLCC were entitled to reach the view that it was not vexatious.

[22] There is no rule of law which prevents a party to litigation complaining about another. The list of features which may make a complaint vexatious is just that. The allegation that the Dean's complaint was motivated by sectarianism is conspicuously unsupported by evidence. The social media exchange which is referred to speaks for itself, as does the context in which it appears, but it does not, on the face of it, affect the substance of the complaint, which lies in communications from Mr McAuley himself. In any event such matters may be taken into account, if considered relevant, and if evidence emerges to support them, by the Law Society. For our own part, it seems plain that in using the words complained of by Mr McAuley, the Dean was quoting with disapproval words used in the Claim of Right. We have already commented on the submissions about settlement and the value of the claim.

### *Plea-in-law 8*

[23] There was no valid complaint, because there was no complainer. A complaint required to be made by a person, but the Faculty of Advocates had no legal personality. Any partnership between advocates had been terminated by the incorporation of Faculty Services Limited in 1970 and *esto* it had not then the Faculty could initiate a complaint only with the agreement of a majority of its office-bearers. In the case of a complaint by any corporate body it would have to be established that its own internal procedures had been followed. However, it was only members of the public who could make complaints. See *SY v Scottish Legal Complaints Commission* [2016] CSIH 9; 2016 SLT 249. Corporate bodies

could sue if they wanted to. During the hearing of a similar appeal before us, concerning a complaint by the Law Society of Scotland, Mr McAuley elaborated on these submissions by reference to section 68(3) of the 2007 Act. It amends the Legal Aid (Scotland) Act 1986 by adding a new section 4A, to give power to the Board to make certain grants to “any person” and section 4A(15) provides that for the purposes of the section “person” includes a body corporate or unincorporate. It was argued that since this was expressed in section 68(3) it meant that “person” in section 2(2)(a) must mean a natural person.

[24] This intricate submission ignores the plain terms of section 2(2)(a) of the 2007 Act, which reads:

- “2. Receipt of complaints: preliminary steps
  - (1) This section applies where the Commission receives a complaint by or on behalf of any of the persons mentioned in subsection (2)-
    - [...]
  - (2) The persons are-
    - (a) as respects a conduct complaint, any person;”

In *SY Lady Clark of Calton* said that

“it is important to bear in mind that it is the Scottish Legal Complaints Commission, and not this court, that is charged with the power and responsibility of assessing, by a sifting process, complaints which are made by members of the public such as the applicant in relation to solicitors.”

In that passage she was clearly distinguishing the roles of the Court and the SLCC and was not suggesting that only members of the public could make complaints. Mr McAuley reads far too much into the passage, which did not even refer to the terms of the 2007 Act.

[25] Section 68(3) does not avail Mr McAuley since it relates to a different Act.

As it happens, section 5 of the Interpretation Act 1978 provides that in any Act, unless the contrary intention appears, words listed in schedule 1 to that Act are to be construed

according to that schedule. Schedule 1 provides that “‘Person’ includes a body of persons corporate or unincorporate”. No contrary intention appears in the 2007 Act.

As was submitted on behalf of the respondent, any other interpretation would mean, for example, that a corporate body could not use the complaints process. That would be an absurd result which Parliament cannot have intended.

[26] As the Commission correctly submitted, the statutory wording could not be wider.

In any event, whether the complaint was made by the Dean in his personal capacity, as Dean, or on behalf of the Faculty matters not – in either event the Dean is a “person”.

Lastly, it is not for the SLCC to make inquiries into the inner workings of cooperate or unincorporated bodies to make sure that their internal rules as to decision-making have been observed. They are entitled to rely on the *omnia rite* presumption, at least for the purposes of the sifting exercise.

### ***Plea-in-law 9***

[27] Under this heading Mr McAuley argued that the complaint was frivolous, particularly having regard to its having no monetary value. He also submitted that the word “complaint” in the singular in section 6 of the 2007 Act means that it was impermissible for the Commission to consider multiple issues of complaint. To interpret section 6 any other way would be to transgress “the permissible bounds of interpretation” mentioned by Lord Bingham of Cornhill in *R (Quintavalle) v Secretary of State for Health*

[2003] UKHL 13, [2003] 2 AC 687. Reference was also made in this regard to comments by Lord Drummond Young in *Saville-Smith v Scottish Legal Complaints Commission*

[2012] CSIH 99.

[28] “Complaint” is defined in the Act as “any expression of dissatisfaction” (section 46).

Thus, the word “complaint” in the Act may, depending on context, refer to the whole complaint or a discrete element of it (*Wilson* at paragraph 9). An interpretation of the 2007 Act which required separate consideration of every expression of dissatisfaction contained in the February 2025 complaint would be absurd. The *Saville-Smith* case provides no support for Mr McAuley’s argument. At para [5] the following is said:

“At this point we should note that the appellant submitted that his original complaint, which was relatively lengthy and made in effect one comprehensive complaint against Mr Brown, had been reduced by the Commission to a much shorter summary, divided into 10 specific complaints. One of those complaints had been accepted and the others rejected for a number of different reasons. In our opinion this procedure cannot be criticized. The original document was lengthy, and it was clearly necessary to reduce the general complaint into a number of specific heads; otherwise it would have been virtually impossible to apply any form of systematic legal analysis to the complaint.”

Nowhere is it said that only one discrete complaint can be made. All that is said is that it was sensible to put the complaints into a manageable form. In fact, complaints may contain a number of elements; section 3 of the 2007 Act and *Anderson Strathern LLP v Scottish Legal Complaints Commission* [2016] CSIH 71, 2017 SC 120 at paras [9] and [21].

Furthermore, section 6 of the Interpretation Act 1978 provides that:

“In any Act, unless the contrary intention appears,-

- (c) words in the singular include the plural and words in the plural include the singular”

No contrary intention appears in the 2007 Act.

***Plea-in-law 10***

[29] Complaint (iv) was an allegation of CV fraud. The Commission had no jurisdiction to consider allegations of criminality. The Commission's *Policy & Procedure Manual*, at 3.4.30 precluded it from doing so. Thus the complaint was vexatious.

[30] We are not persuaded that complaint (iv) amounts to an allegation of CV fraud as Mr McAuley suggests. Even if it does, however, the policy cited by Mr McAuley does not say that the Commission may not consider complaints in which it is alleged that the practitioner has committed a criminal offence. At 3.4.31 it is explained that the SLCC can consider complaints in which the complainer alleges that the practitioner has committed a criminal offence and the issue(s) of complaint will be drafted as normal detailing the specific actions which are alleged to have breached the professional standards. However, the SLCC is unable to consider an allegation of crime as such and reference to specific criminal behaviour can prevent the complaint being fully considered within the complaints process.

[31] In terms of 3.4.32, if reference to criminal activity is insisted on, the policy directs the Commission's investigators to ensure that such allegations are considered in the context of the relevant professional standards, consistent with the division of labour between the Commission as the complaints gateway on one hand and law enforcement agencies on the other. The complainer should be told that such references may prevent the complaint from being fully considered. All this means is that the SLCC, and for that matter the Law Society, cannot reach a verdict on criminality, such being a matter for a criminal court, but the complaint can be examined as a breach of professional standards.

*Pleas-in-law 11 and 12*

[32] The eligibility report did not contain any evidence. It was therefore in breach of the Commission's own policy that case investigator's make evidence-based decisions. It was the case investigator's job to collate the evidence against Mr McAuley and send it to him for his comments. The case investigator had impermissibly inferred certain matters resulting in an unsubstantiated report. There should have been an Appendix, following what was said by Lord Glennie in *X LLP and others v Scottish Legal Complaints Commission* [2017] CSIH 73. The evidence should have been spelled out specifically.

[33] The difficulty for Mr McAuley is that the complaint relates to correspondence he sent and an application for a practising certificate he submitted. As Lord Armstrong held in *McAuley v Scottish Legal Complaints Commission* 5 February 2025 (unreported) Mr McAuley must be taken to be aware of the contents of documents he authored, which form the basis of the complaint and which, in any event, contains specific quotes. Mr McAuley submitted that solicitors cannot be expected to have a photographic memory and so he could not be expected to identify himself what correspondence the complaint referred to. This is unconvincing, given that the dates and recipients are specified in the complaint. In any event, the reasons for the decision and the material on which it was based are quite clear. Lord Glennie did not decide in *X LLP* that an Appendix was necessary. It just so happened that there was one in that case and indeed his Lordship said, at para [8] that matters of specification could be dealt with at the second stage once the complaint is being investigated.

*Plea-in-law 13*

[34] Mr McAuley submitted that the whole complaint was frivolous, vexatious, and totally without merit. He essentially repeated his submissions regarding the lack of pecuniary loss, the Dean's alleged vendetta against him, and that he had never met the Dean. He suggested that the Dean's behaviour was "bizarre and erratic", that he was struggling with his mental health and drinking excessively. The complaint regarding alleged non-disclosure of *McAuley v Ethigen* was "deranged" because the case had been reported in the *Scots Law Times*. As it happened, he was going back to the EAT and the quotes from it relating to his alleged conduct would be removed from the public domain. In any event, given the outcome of *McAuley v Law Society* any issues relating to his practising certificate application were *res judicata*.

[35] Once again, we emphasise the low threshold which a complaint must clear to be accepted for investigation. The eligibility report quoted a sample of Mr McAuley's correspondence with the Dean on 9 February 2025:

"I can assure you I am thinking carefully, very carefully indeed, about what articles I can write on my website, as well as how I can generate views for them, and also do some on the ground activism leaving dramatic leaflets in places like Courts, Law Schools, Football Grounds, & Conferences. I just hope you are thinking carefully too about, 'what is the point of that?' – thinking carefully that it might just be best for me to be granted a management license & all witch hunt complaints dropped, so that we can all just forget about this whole debacle & I can just get on with my life normally. I know you probably have the power to influence that happening, and I just hope you do."

What to make of that email, and the rest of Mr McAuley's correspondence, will be a matter for the Law Society in due course. However, the crisp question for us, per *Levy & McRae* above, is: "Could correspondence in these terms never amount to a departure from the standards of conduct, such that it would be a waste of time for the Law Society to consider it?" Framed in those terms, the lack of merit in this submission is evident. Like "title and

interest” and “standing”, *res judicata* is not a concept applicable to a section 2 eligibility decision.

***Plea-in-law 14***

[36] Finally, Mr McAuley contended that the Commission was “indisputably” breaching section 6 of the Human Rights Act 1998. Indeed, the breach was so “black and white” that if the court did not agree then Mr McAuley’s appeal should be taken as notice of his intention to take his appeal to the Supreme Court or ECtHR. The interpretative obligation in section 3 of the Human Rights Act 1998 applied. The regime of professional regulation of Scottish solicitors violated their Article 2, Protocol 1 right to education. The Commission had twice allowed complaints “worth £0.00” to proceed against him. It was “institutionally racist” against him as a Catholic solicitor and was facilitating racism within the legal profession.

[37] These arguments are in the main repetitions of those contained in pleas-in-law 1 – 13 above. We agree with the submission for the Commission that Convention compatibility ought to be assessed on a “whole system” basis. We consider that the system of regulation for Scottish solicitors is compliant with the ECHR when viewed in the round. Whether Mr McAuley has departed from the standard of a competent and reputable solicitor will be determined, in the first instance, by the Law Society. A finding of professional misconduct requires to be made by the independent Discipline Tribunal. Any such finding, and any sanction flowing therefrom, may be appealed to this court. Mr McAuley will have a full opportunity to defend his conduct, and raise any matter he considers relevant, within the Law Society’s investigatory process. We are bound to observe that we saw no evidence on the material produced before us of anti-Catholic bigotry on the Commission’s part.

***Other matters***

[38] Two further aspects of Mr McAuley's submissions require comment.

[39] Firstly, Mr McAuley lodged a printout from the Law Society's "Find a Solicitor" webpage listing the solicitors directly employed by the Society. He observed that a majority of them were female. He further lodged screenshots from the Discipline Tribunal's webpage demonstrating that the vast majority of solicitors who appeared before the Tribunal were male. He suggested there was something sinister about this. For the avoidance of doubt, there was produced no substantive evidence for any suggestion that the Commission discriminated against him because he was male.

[40] Secondly, Mr McAuley made submissions about bad faith on the part of the SLCC and an intention to claim damages. We could detect no evidence for the former and the latter was not a matter which was before us in any shape or form.

**Conclusion**

[41] The proposed appeal fails to engage properly with any of the section 21(4) grounds and, for the reasons outlined above, has no prospects of success, realistic or otherwise.

Leave to appeal is refused.

[42] Parties were agreed that any question of expenses should be dealt with by way of written submissions so we reserve that question until an appropriate motion, if any, is before us.