

PE1458/T

Response from Petitioner Peter Cherbi re: Petition PE1458: Register of Interests for Judges Petition

With regard to the opposition of the Lord President on the publication of interests of the judiciary, I wish to point out to members of the Committee that the Lord President and certain other members of the judiciary, in their role as members of the board of the Scottish Court Service, have felt sufficiently safe to publicly declare interests they wish to declare in the annual report of the SCS.

These declarations appear on pages 18 & 19 of the 2012-2013 SCS annual report, available online on the Scottish Court website:

<http://www.scotcourts.gov.uk/docs/default-source/SCS-Annual-Report/17360-scs-annual-report-navigable.pdf>

The declarations as published in the SCS annual report appear to conflict with arguments put forward by the Lord President to the Petitions Committee that creating a register of interests for the judiciary may have "unintended consequences".

Lord Gill's letter of 5 February 2013 stated **"The introduction of such a register could also have unintended consequences. Consideration requires to be given to judges' privacy and freedom from harassment by aggressive media or hostile individuals, including dissatisfied litigants. It is possible that the information held on such a register could be abused. These are significant concerns. If publicly criticised or attacked, the judicial office holder cannot publicly defend himself or herself, unlike a politician. The establishment of such a register therefore may have the unintended consequence of eroding public confidence in the Judiciary. It also raises the question whether such a measure would have an adverse impact on the recruitment and retention of the Judiciary"**

However, it now appears to be the case that none of the issues or concerns raised by the Lord President in his opposition to the establishment of a register of interests for all members of the judiciary, have prevented members of the judiciary including the Lord President himself in declaring interests they wish to declare as contained in the SCS annual report.

While this is a welcome declaration, I would wish to point out that declaring interests in an annual report is a long way from declaring interests in open court when litigants and legal counsel are involved in ongoing litigation. Nor could it be argued the declarations contained in the SCS annual report are in a medium which any litigant or court user may be easily expected to source, and act upon accordingly if necessary.

In view of this development, it may be advantageous for the Committee to request the Lord President and perhaps judicial colleagues to attend an evidence session and answer questions as to why, on one hand, members of the judiciary feel it is appropriate to disclose interests they wish to disclose in fairly technical, annual reports, while on the other hand the Lord President opposes disclosure of his own, and his colleagues interests in a regularly maintained and published register of judicial interests which would bring the judiciary into line with others in public life, and benefit court users, litigants, members of the public and the judiciary itself.

Peter Cherbi,
Petitioner PE1458