

The Hon Lord Pentland QC
Chair
Scottish Law Commission
140 Causewayside
Edinburgh
EH9 1PR

8 June 2015

Dear Lord Pentland,

REPORT ON ADULTS WITH INCAPACITY

I would like to thank you for your Report on Adults with Incapacity and the draft Adults with Incapacity (Scotland) Bill, which was published in October last year. I very much appreciate the considerable thought that went into what is a very sensitive and difficult subject area. I am also appreciative of the briefing Laura Dunlop and her team provided to officials here in December 2014. It is helpful that in making its recommendations, the Commission has attempted to take a pragmatic approach to the issue at hand.

Since receiving the Report we have of course been giving the recommendations some consideration. To help inform that consideration we have also taken informal soundings from a number of stakeholders. They have raised a number of questions about the recommended approach which support the need for further consultation and deliberation. They also all expressed a clear expectation that the Scottish Government will consult fully on the Report and I understand that Ms Dunlop, shares that expectation.

It is therefore our intention to consult on the Commission's Report in the course of this year. The exact timing of any consultation is dependent upon other priorities, but I shall ensure that you are kept advised once a firmer timescale has been settled on.

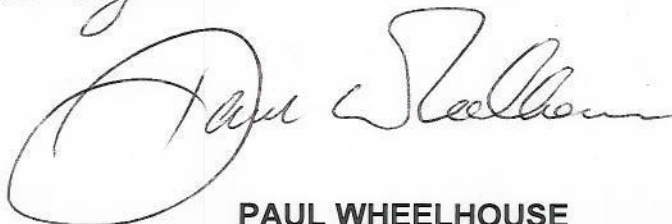
The aim of the consultation will be to seek further views on specific matters raised in the SLC report with a view to informing the Scottish Government's policy approach to this issue. An outline of some of the issues that we anticipate might be covered in the consultation are likely to include; the scope and extent of the powers needed to lawfully detain an adult in hospital or a community setting; the scope of the 'significant restriction' definition; the

practicalities of the certification processes; and the role of attorney's and guardians in the processes

The outcome of the consultation will also inform our decision making in terms of what if any, legislative response is needed.

I hope this information is of some interest to you and I look forward to continuing to work with the Commission in taking the Report forward.

Kindest regards



PAUL WHEELHOUSE