Submission from Douglas Leslie for the Legal Profession and Legal Aid (Scotland) Bill

I am writing to express some thoughts about some of the proposals in the above bill.

Firstly, I have considerable concerns about the amount of compensation that might be payable under the heading of "inadequate professional" service. Nobody would argue that a client should not be entitled to compensation for any monetary loss that he might sustain as a result of his solicitor's negligence. To suggest that a solicitor might face a fine of up to £20,000 where there has been no monetary loss is frankly ridiculous. Inadequate professional service can cover a variety of "sins". I have heard of a case where a client made a successful complaint of IPS where his solicitor failed to keep an appointment after being unexpectedly delayed in court. To uphold such a complaint shows a complete ignorance of the way that Courts work. To allow a solicitor in that situation to face a five figure penalty is ludicrous.

I also note that a solicitor against whom a complaint is made will face a levy even if it is not upheld. This is manifestly unfair.

I know one solicitor who represented his client in a criminal case. He did not put his client in the witness box and the client was acquitted on all charges. His client complained of IPS because he had not been given the chance to state his case in the witness box (in which event he would almost certainly have been convicted). Needless to say this ridiculous complaint was rejected, but under the new Bill my colleague might have had to pay a levy to allow it to be dealt with. That is ludicrous.

I have heard that the proposed levy might be in the region of £500. It does not take a genius to work out that some unscrupulous clients who know how to "work" the system could threaten to make a complaint of IPS unless their bill is reduced by £400. A solicitor might be forced to accede to his and take the £400 loss rather than pay the levy.

Solicitors face unfounded and unsustainable complaints on a regular basis. These can be made for a variety of reasons ranging from ignorance of the law to sheer ignorance. To impose a levy to allow a solicitor to fight such complaints is totally unfair. If the public want to have an independent body to harass lawyers even more than the Law Society harasses them at present, then I would suggest that the public should fund it through general taxation or alternatively by being required to pay a levy for a complaint which would be returned in the event of it being upheld.