Submission from Robert Fitzpatrick for the Legal Profession and Legal Aid (Scotland) Bill

Having recently completed a course of dental work which I found less than satisfactory and having paid a substantial bill of over £1,200 for the privilege I was just wondering if it would be possible to complain about the inadequate professional service provided to me by my dentist and the cost of treatment and possibly seek some compensation from him. Obviously I can complain to the BDS (I think I can anyway) but will they pass that complaint on to an independent body set up by the government specifically to deal with complaints however unjustified? Will they be entitled to order the complete repayment of fees? Will they be entitled to compensate me for up to £20,000 independent of my full legal remedies? In short is there any other profession regulated or to be regulated in this arbitrary and oppressive manner? What about accountants, doctors, dentists. Are plans afoot to regulate them in a similar manner. Of course they aren’t. By all means regulate publicly funded legal services in any way you see fit and see access to justice disappear as it has in civil matters but why introduce yet another publicly funded QANGO to deal with one profession only? Or could it possibly be that you expect the legal profession to pay for this?

I for one am delighted that the Law Society can now legitimately begin to stand up for the profession in relation to matters as it now proposes to do. All that is going to happen now is that our profession will be much better organised in fighting off complaints and being able to involve the Law Society in assisting us in this fight and introducing a new layer of resistance against complaints against the profession.

I am a Client Relations Officer with a medium sized legal firm. I can tell you that the public are now much more conditioned to complaining against everything they can and engaging solicitors to assist them in this and if that fails, complaining against the solicitors themselves. I am sure they would like the idea that solicitors are somehow so much more dodgy than every other profession that they need in some way to be regulated in a different manner. Or is that in fact what the Committee believes anyway?

At the moment we consider ourselves to be judged by our peers and few people argue against that type of justice. As soon as you remove this you will definitely see a hardening of attitudes and in my view make the handling of the public's complaints more problematic instead of less so. That is probably the price the Scottish Parliament is prepared to pay to continue the cult of lawyer bashing which permeates society as a whole and sets the profession apart from any other.

Please don't hesitate to contact me once you start considering how the Scottish Parliament should get involved in setting up regulatory bodies for other professions. We know this will never happen and I wonder why we as a profession are being singled out for this type of treatment. Every professional person is placed in a privileged position by society and must be able to live up to that elevated position. Lawyers are not afraid of this responsibility and with the prompting of their professional body have up to now been far better than any other profession at demonstrating to the public that we prepared to not only listen but deal with their complaints however trivial they may be. Very few solicitors get sued in the courts as opposed to the vast number of medics who do. This is because our complaints handling has until now been first class. Nothing is ignored and there are rigid procedures in place. Which other profession can honestly say this? Which other profession routinely sees their work reviewed and critiqued in an unbiased way by their peers? Without being disrespectful could politicians say the same thing? If a constituent brings a matter to a politician for them to deal with on their behalf and it is not dealt with adequately when a fellow politician examines it on behalf of the disgruntled constituent would it be appropriate that that person be entitled to be compensated and compensated up to a level of £20,000 and if not what is the substantial difference? Is it our ability to charge fees for our work? If so what is the difference between solicitors and dentists and accountants?

Solicitors have a unique system in place and that can be the only reason now why the Scottish Parliament feel able to get involved. Setting up a similar system in relation to politicians, accountants, dentists, etc., would be a nightmare. Not so the hijacking of an
existing system. That is all very well but why should I or more particularly the Legal Business that I am involved in be placed in jeopardy to the tune of £20,000. Where did this figure come from? Who decided this was an appropriate figure for all legal firms irrespective of their size or the value of the work carried out on behalf of the Client? I can tell you now that a bill of that size would instantly bring most small to medium sized solicitors firms to their knees. Are you going to compel our professional indemnity insurers to offer us cover for these claims because they don’t at the moment and are unlikely to.

As you can probably tell and may now realise from what I hope are the considerable number of submissions that have been received from the profession (many more moderate than my own I have no doubt!) this is a matter which my profession, usually supine to utmost degree feels very strongly about. I should be most grateful if you would not rush in to any hasty or ill thought legislation which costs more and delivers less as unfortunately has been the case in so many well meaning organisations. Some day someone will tell me what the Office of the Public Guardian has brought to any aspect of protection of the public that wasn’t there already and I fear you are thinking of setting up a similarly useless organisation to regulate only one profession for reasons which mystify me. Why is the state even considering meddling in such matters?