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

I am writing in connection with the aforementioned Bill and undernote my views in respect of some of the keys areas where this Bill will seek to change the current status of complaints handling within the legal profession.

Complaints are currently handled by the Law Society in a way which is both independent to all, efficient, fair and economic manner. My concern in relation to the “outsourcing” of this complaints function is three-fold:-

How can it be expected that non-lawyers will have the ability to judge the quality of work and assess the nature of the complaint without the legal ability to understand the way in which the work ought to have been performed in the first instance

The current complaints system is funded by the lawyers through their annual subscription to the Law Society. If the complaints system is to be out-sourced then my concern relates to the funding of this system. Complaints, by their nature, tend to come not from the large blue-chip city firms but from the small-to-medium sized practices. If the Bill imposes upon the individual firm a levy for each complaint RECEIVED then this could have a huge impact on the ability of some practices to continue. A large majority of complaints are not upheld and my concern is that in the event that spurious complaints are made with the attraction of larger payouts for IPS then the impact on smaller firms could be sizeable. Further it is not to be anticipated that the Law Society will reduce it annual fees if the complaints handling function is removed from them which will be a double whammy to firms.

IPS - this was a relatively novel approach from the Law Society to compensate clients who were not hugely happy with the service that they had received but that the service had not fallen to the standard where the lawyer could be considered to be negligent. In some circumstances this provided a cost free option in which the clients could obtain some compensation without the need for court action or to establish that they received a negligent service. My concern about raising the limit for IPS to £20,000 is that this was never designed to be a forum for claims for negligence and was more an exercising in ensuring some element of customer satisfaction and maintaining the good reputation of the profession. If clients have claims for negligence or complaints about their service then that should be something which is left to be determined by the courts and one which firms are able to insure themselves against. For a small firm to be found to have provided IPS and have imposed a penalty of £20,000 in combination with the other provisions of this Bill could be crippling.

At a time when times are difficult for those working in the profession with increasing demands from the client, increasing bureaucracy from the Legal Aid Board with little or no increase in reward I am hugely concerned that this Bill will serve to dissuade people from entering the law, result in fewer numbers of firms all with an impact on access to justice.

The views expressed here are my own and not to be construed as those of my firm.