Submission from Tom Davidson for the Legal Profession & Legal Aid (Scotland) Bill

Having reviewed the above Bill I wish to express the following views on certain of the Bill’s stated purposes:

1. **Section 8**

The proposals to:

a) increase maximum compensation for inadequate professional service from the current upper limit of £5,000 to £20,000;

b) to give no appeal against the Legal Services Complaints Commission to the Courts and

c) to have said Commission funded by a general levy on legal practitioners and a levy on complaints (whether the complaint is upheld or not) are ill advised.

In relation to a) having had the maximum level of compensation raised just last year from £1,000 to £5,000 what justification is there for increasing the limit again fourfold?

In relation to b) the lack of ability to appeal will not comply with European Convention on Human Rights, which I suspect will also be the case in relation also to c)

c) is of most concern.

Firstly, it appears the legal profession will be writing a blank cheque to fund the new Commission, the current costings for which I suspect may be considerably understated. If the Executive are satisfied as to their costings, let a cap be put on the funding from the legal profession so that we pay no more than the cost of administering the current system and let the Executive, not the profession, pay for any additional funds that may be require.

Secondly it must surely be more fair than that proposed that a higher case handling fee is charged to a solicitor against whom a complaint is upheld, rather than a flat handling fee applying to call cases.

2. **Legal Aid**

The Bill will also cause particular problems for Legal Aid practitioners. The increased costs to be absorbed and the risk management considerations viewed against the likely return will undoubtedly mean that other firms, *as my own firm has done*, will cease doing any new Legal Aid cases. This will impact upon the public’s access to justice – surely not something that the Executive wishes to be the result of their Bill.

In the circumstances I respectfully suggest that consideration be given to amending the Bill to take account of the foregoing.

Yours faithfully

Tom Davidson