Submission from Nick Ryden for the Legal Profession and Legal Aid (Scotland) Bill

I refer to the above. I would first of all admit I have a clear interest in that I am a practising lawyer. As a practising lawyer, I am fully in favour of the legal profession being properly policed and being answerable for incompetence and other misdemeanours. I would also agree the Law Society may not be the correct vehicle for policing the profession. I and my partners are more than happy to be regulated and controlled in such a manner as properly protects the public.

That said, the Bill that is being proposed and the procedures that will emanate from the bill appear to be highly biased and do not appear to have been thought through. In short, it constitutes populist legislation, which might make members of the public happy but does not give the profession adequate protection and comfort nor, indeed, a fair hearing.

1. Why should the specific levy be payable irrespective of whether the complaint is upheld or rejected?

2. Because of this, complainers can act in a vexatious manner. Indeed, the process may well spawn yet another offensive breach of the profession, namely, claims consultants who are encouraging spurious claims.

3. The draconian nature of the proposals and the fact that those who are subject to the proposals have no clear rights/remedies may well limit the numbers prepared to give legal advice, particularly in areas where there is very little choice as to advisers.

4. What protection does a member of the profession get from spurious/vexatious claims made by an ex-client or some other third party with a grudge? Presumably, the solicitor ends up paying the levy for each complaint.

5. Why is the right of appeal dealt with by other members of the Complaints Commission as opposed to an independent body? Whilst the answer is that the remedy of judicial review is available, this is an extremely costly and time-consuming process.

In short, what is being proposed is a totally inequitable process, which will no doubt make members of the public happy in that it makes lawyers suffer but, in the end of the day, creates an imbalance and unfair situation. For this reason and the reasons above, I would wish to register my strongest objections to what is proposed and urge the Committee to rethink or, at least, redraft the bill to add some equity and protection to both sides of any particular dispute.

Once again, I would repeat that as a member of the legal profession I consider it has to maintain standards and if the Law Society will not maintain them then someone else must. However, in maintaining standards there must be fairness and there is no reason why either party to a dispute should be penalised, particularly where found innocent.