Submission from James Andrew for the Legal Profession and Legal Aid (Scotland) Bill

Tomorrow is the deadline for submissions in response to the above Bill.

I am a solicitor in private practice and wish to submit my concerns. I have had an opportunity of reading the submission made by my Partner, Alan Matthew and full endorse his view. I would wish to make my submission in similar terms and attach a copy of this letter by way of confirmation.

Whilst Alan is a Partner of mine, he has specifically stated that his letter represents his personal viewpoint. I confirm that I am of a similar opinion.

Letter from Alan Matthew

I am writing to you following the request for submission of evidence after publication of the above Bill. As you will see from my firm’s headed paper I am a solicitor in private practice. The views expressed here are my own.

I am writing to you in relation to the proposals for dealing with complaints/regulation of solicitors. I am extremely concerned at the terms of the Bill and would summarise my misgivings as follows:-

1. As proposals stand, I do not believe the proposed Scottish Legal Complaints Commission to be truly independent. There is no proper right of appeal for solicitors.

2. The cost of the new body is likely to be significant. Certainly, it will be considerably more than the current system operated by the Law Society of Scotland. While, in general, an increase in cost is unacceptable if the increase were to be paid by public funds then my concerns might be partly allayed. However, I believe that the intention is to make the profession pay. The increased costs will be a major burden to small High Street firms in particular.

3. The “polluter pays” concept is flawed. Why should an “innocent” solicitor be required to pay for a system when complaints (perhaps made by a malicious or even mentally ill clients) may be found to be groundless. Moreover, solicitors in particular types of work e.g. matrimonial, executries, house purchase, etc. generally receive more complaints than other areas of work. This will lead to a lack of willingness in the High Street firms to carry out this type of work. The public may have difficulty in finding a solicitor to act for them.

4. The increase in compensation to be awarded in cases of inadequate professional service to £20,000 is unreasonable and unnecessary.

5. The proposed commission is not ECHR compliant.

6. The cost of the proposed system will fall disproportionately on firms carrying out “people law”. High Street businesses throughout Scotland will be under threat and may close. Legal firms in the High Street employ a significant amount of people.

7. The system being imposed appears to be an English solution for Scottish problems. The Law Society has improved its handling of complaints to a satisfactory level and yet seems to be being punished for its efforts.

I have no difficulty in principle with the Scottish Legal Complaints Commission being set up to deal with service complaints. I do, however, have great difficulty with the imposition of an ill thought out scheme which creates still more bureaucracy, will result in greater involvement of the courts in complaints (disgruntled solicitors will inevitably seek recourse to the courts) and an Anglicised response.
I do find it disappointing that previous consultations have treated a response from the Law Society of Scotland as one response.