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

CIPA broadly welcomes the general principles of the Legal Profession and Legal Aid (Scotland) Bill. Particularly, CIPA welcomes the proposed activation of Sections 25 to 29 of the Law Reform Miscellaneous (Scotland) Act 1990 to provide Rights of Audience and Rights to Conduct Litigation to members of accredited professional bodies. CIPA also welcomes the intention to amend the Solicitor's (Scotland) Act 1980.

The provisions relating to the formation of the Scottish Legal Complaints Commission appear to largely mirror what is intended for the Legal Services Board in England & Wales, as far as these are apparent from the White Paper and our subsequent discussions with the Department for Constitutional Affairs. The English White Paper has made it clear that the intention is that the Legal Services Board will have "light touch" and "risk-based" oversight of the legal professions and we hope that this is also the intention for the SLCC. A particular issue of concern to the Institute about the LSB proposals has been that the cost of running the LSB will impose a very substantial burden on a very small Institute such as ours, which has to deal with very few complaints each year, and that the levy to be imposed on the professionals must not be so high that it will be a disincentive to members to subject themselves to the regulatory oversight. In the case of the SLCC, the levy will not apply to any members of CIPA until the Institute has been granted authorised status under Clause 25 of the Law Reform (Miscellaneous Provisions) Scotland Act, but it should not be set at a level that will discourage members of the Institute from seeking to acquire representation rights in the Scottish Courts, which would thus frustrate the purpose of that clause in seeking to promote competition in the provision of legal services in Scotland.

CIPA welcomes the opportunity to make these comments to the Justice 2 Committee. However, we are somewhat surprised as to the short timescale that has been given to make these comments (10 days). Our comments are therefore of necessity brief. If you require any further written or oral submissions from us then please let us know, as we would welcome the opportunity to comment further.