

20<sup>th</sup> March 2017

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Dear Neil

Further to your e-mail to me dated 1<sup>st</sup> March 2017, I must confess I have been at cross-purposes; entirely my fault. I have been responding to your press release dated 15<sup>th</sup> December 2016 on the C.M.A. Report into the legal Profession in England and Wales. Not your consultation documents on budget and Operating Plan.

Although I may be too late for your Board Meeting my comments on the two-page Annual Review 2017 and the other document are as follows.

1. The S.L.C.C. Annual Review 2017

It would appear that 39% of the complaints were processed onwards or resolved.

25% were rejected because the solicitor or firm did not get a reasonable opportunity to deal with the complaint.

7% were rejected due to your time limits (1 year).

Finally, 13% were rejected due to "frivolous, vexatious or totally without merit."

I make that 84% but perhaps I am missing something.

Overall this must be viewed to be a good year's work. However, I am concerned that 25% of complaints which have been rejected are because the solicitor or firm did not have a reasonable opportunity to deal with a complaint.

This suggests to me that many of the consumers do not realise that this is a process that has to be completed within the previous 1 year prescription period.

If so, this section may require to be better publicised.

The increase of the prescription period from 1 to 3 years may well help to reduce large numbers of rejected claims. Am I correct to believe that the complainant must make his complaint first to the solicitor or firm, give them

time to respond, and if matters are not resolved then make the final complaint to the S.L.C.C. within the prescribed time limit?

Previously all within 1 year now 3 years?

Turning to your main document.

Resolving Complaints / Improving Practice / Inspiring Confidence

Item 2.4 States ***"...which look at how the professional bodies (RPOs) deal with conduct complaints."***

The Master Policy does not cover conduct complaints.

Item 2.7 States: ***"The feedback we collect from lawyers and consumers shows that consumers are relatively less aware of our services and need more support to engage in the process completely."***

Perhaps this is why you have such a large amount of complaints (25%) rejected due to the fact the solicitor or firm did not get sufficient time to respond to the complaint within the 1 year time limit.

I fully accept the solicitor or firm should get the first opportunity to resolve any complaint. The only danger I can see is they delay too long before dealing with the issue which then takes the complaint over the time-bar period.

4. The Environment we are working within - Drivers of cost

4.2 The increase of complaints could be due to the general consumer, particularly from individuals or very small companies, being more aware of your services.

4.4. May simply require more staff.

4.5, 4.6 and 4.7 My complaints against [REDACTED] have been caught up in this issue. This does not present any problem to my company. It may, however, cause unnecessary stress for any conveyancing issues or in many of your other categories of complaints.

The detailed work I have prepared based upon my 25 year battle against Maclay Murray & Spens and MacRoberts may well fit into your

top six priority objectives with your Operating Plan which you have identified as:

- ***We will improve the efficiency and effectiveness of the complaints process, where it is within our control.***
- ***We will aim to ensure that all cases impacted by the ruling of the Inner House of the Court of Session on 'hybrid issues' have compelled their progress through our processes, and that we return to, or improve on, our previous performance levels.***
- ***We will aim to ensure that all consumers of legal services know the SLCC exists and how we can help – this is vital in successfully delivering our function as the single gateway for all complaints about lawyers.***
- ***We will promote legislative changes which will assist in further improving the efficiency and effectiveness of the complaints process.***
- ***We will work with the Law Society of Scotland to understand their plans for development of rules, guidance, advice and information, and explore how we may be able to add value to that process.***
- ***We will improve our website, which is our most cost effective, and most transparent, communication tool to ensure it is easily used by all users, especially those on mobile 'phones or tablets, and those with visual impairment.***

During my three days of mediation in 2007, chaired by Mr. John Sturrock of Core Mediation, and outwith my presence (I was on a one-to-one discussion with Philip Skerrett, then Chairman of Maclay Murray & Spens). Hugh Donald, then Chairman of Shepherd & Wedderburn (now retired) made the comment to all the other solicitors and the Royal & Sun Alliance: ***"I do wonder how the profession could learn from Bill's experience."***

My 25 year legal odyssey must be as close to unique as one can get.

If nothing else I have created possibly the only Scottish precedent for litigation against the legal profession in a very long time.

Please also see Lord Hodge's Foreword in the Dundas & Bartos book on Arbitration (Scotland) Act 2010 which I quote:

“

**FOREWORD**

***Before the Arbitration (Scotland) Act 23010 was enacted, the Scots law of arbitration was relatively inaccessible and far from user-friendly. Most of its rules were based on elderly (nineteenth century) case law which did not address modern commercial realities; legislative procedure was piecemeal; and there were many gaps and uncertainties. Lack of clarity about an arbiter's powers gave rise to avoidable and expensive disputes; see, e.g. McCrindle Group Limited v Maclay Murray & Spens [2013] CSOH 72. In short, it was not fit for purpose.***”

I am extremely confident that my experience - plus my knowledge of Quality Control and Quality Assurance in my 38 years of running an engineering company that operated in the very demanding offshore oil industry, petrochemical, shipbuilding and aerospace (to name a few) - could well be of great assistance to not only the legal profession but the consumers they serve.

4.8            Whatever it takes financially and from whatever quarter the vital work of the S.L.C.C. cannot be stifled due to financial reasons.

4.10          From my experience a significant number of solicitors are not aware of the detail of the vital work of the S.L.C.C. (Perhaps some do not wish to know.)

The Public must be made aware. In these modern days of the preference for many to utilise the internet and not newspapers a fully functional, user friendly website is vital for the legal profession (whether they like it or not) and especially for the consumer.

In previous years I have questioned over twenty solicitors: What was the prescription period for making a complaint against a:

(a)    solicitor?

(b)    advocate?

Not one gave me the correct answers.

5.            Efficiency Savings

5.7 I noted the statement “...*within the relevant time limit*” (which is different for service and conduct issues).

I have not been aware of the difference in time limits for service in comparison to conduct.

Please advise:

- (a) What are the current differences?
- (b) How long has this difference been in practice?

This section alone appears to me to be an organisational nightmare. It is a miracle your staff can function at all.

#### Priority Objective No.3

Ensure that all consumers of legal services know the S.L.C.C. exists and how the S.L.C.C. can help is of absolute importance. The S.L.C.C. is to be lauded for recognising the importance of this vital issue. The proposed website will greatly assist this Priority Objective.

I am not the slightest bit surprised that: ***“Referrals by the lawyers offering the original service was one of the least common ways.”***

It is always in the interests of the legal profession that as many as possible complaints are time-barred.

This statement does clearly demonstrate the importance of your vital role.

#### Priority Objective No.4

I am fairly confident my more detailed report may be of some value to this Priority Objective.

#### Priority Objective No.7

In this section you mention the possibility of “A new approved Regulator.” Could you please provide me with any details on this issue.

I understand that the handling of complaints in England and Wales is now the responsibility of an independent regulator, not the Law Society.

Priority Objective No.8

I note last year the S.L.C.C. received seven handling complaints. There will certainly be one from my company relative to the Law Society's handling of my complaints (service and conduct) against [REDACTED].

Priority Objective No.12

I believe the publication of information relative to complaints will benefit both the profession and the consumer.

Priority Objective No.13

I have been working on a detailed submission which I believe may be of assistance to the development of the Operating Plan.

Priority Objective No.14

This has to be a vital Priority to protect the consumer. The S.L.C.C. must be given the powers to enforce redress where they believe it is appropriate.

Again my report on my twenty-five years experience may be of assistance.

Priority Objective No.15

I would welcome more information on the Independent Consumer Panel.

Priority Objective No.17

I am very pleased to note the S.L.C.C. has been accredited as a "Living Wage Employer".

Priority Objective No.19

Staff development is clearly vital provided it is expedited impartially and fairly. There has to be very clear guidance to ensure favouritism does not prevail.

Priority Objective No.19 (5)

Clearly the focus on the issues which lead to the most complaints will focus the group mindset of the profession.

The Proposed Expenditure to July 2017 to 30 June 2018 can only be described as very lean considering the importance of the S.L.C.C.'s role.

I have only one other overall comment. I do feel some of the priorities appear to overlap.

To utilise the old Labour Party Annual Conference phrase: some of these priorities could perhaps be composited.

I am also concerned that given the lean staff, the list of priorities are too numerous and should be reduced.

If you expedite them before the year end, others could be brought forward.

To not achieve all of a too high a list of objectives could lower morale. Remember Napoleon's dictum: *"In war, morale is to material as three is to one."*

Kind regards



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Chairman  
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