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Assembly

Committee for Finance and Personnel

OFFICIAL REPORT (Hansard)

Legal Complaints and Regulation Bill:
Department of Finance and Personnel

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During its period of work, Bain conducted a piece of work to address how satisfied consumers were with the services of their solicitors. That was carried out in an omnibus survey, which the Bain report refers to. In the survey, consumers were asked how satisfied they were with the services provided by their solicitors. The ratings given were quite high, with well over 80% saying that they were very satisfied. A distinct minority of people were either not as satisfied or did not have a view on it. That pointed to the fact that the key issue was that complaints against solicitors are lower in this jurisdiction than they are elsewhere.

On the issue about how to capture complaints at the very first tier, the Department has noted the Lay Observer's evidence to the Committee in, I think, June last year, when he was very specifically asked that question by, I think, the Deputy Chairperson. The Lay Observer was at pains to point out that there are difficulties and perhaps unintended consequences in trying to get statistical information on every single complaint that is made to every single solicitor in this jurisdiction. The Lay Observer took the view that you could be leading yourself into a level of bureaucracy that could have difficulties for the scheme as a whole. I do not intend to go through what the Lay Observer said on that occasion, but the Department has been guided by it. That said, however, I think that we would be open to considering how we best go about this. I just want to point members to the fact that, in the Bill at the minute, we have powers for a commissioner that are actually very broadly drafted. In fact, the professional bodies would say that they are too broadly drafted. There is considerable scope within the way that the powers are currently drafted for the Legal Services Oversight Commissioner to carry out work on this particular area and to get the sort of statistical information that this Committee would seek to help to inform his or her work in overseeing how complaints against lawyers are handled more generally. I would direct you to clause 2(1)(d) to (f), for example. In each of those three paragraphs, there is considerable scope for the Legal Services Oversight Commissioner to do the type of work that this Committee would like to see carried out to get that clear picture.

If that were considered insufficient, it is backed up by clause 4. Again, clause 4 has been subject to a level of concern by the professional bodies who, I think, have read more into it than is necessary. That particular clause gives the Department the power to ask the Legal Services Oversight Commissioner to review or report on any issue relating to the system. There would be the possibility for the LSOC to carry out a particular piece of work to try to see how those first-tier complaints and statistics on them could be best captured. I suppose that my caution is that, once you get down to that level of detail, particularly in primary legislation, you have to consider things such as which complaints solicitors need to register. A complaint can vary considerably in its nature. I certainly would not want to name any to this Committee, but you get some solicitors who, by their nature, might be abrupt or rude to a client at times, but who provide excellent service as an end product. Rudeness —

The Chairperson (Mr McKay): It is not good service to be abrupt and rude to your clients.

Mr M Foster: I agree, but there are certain instances to consider. If someone phones somebody on a particularly bad day and they say, "Look, I cannot talk to you now", and are abrupt to them, but yet, the next day, provide an excellent piece of work on a particular subject, do we categorise that as a complaint? It is perhaps not the most elegant example. I suppose the point that I am getting at is that there might be danger of losing the overall policy aim in the detail. The Lay Observer had concerns about that and made his point about bureaucracy. I suppose that there might be an unintended consequence that solicitors will not take the same level of ownership of this new system at the first tier if there is an additional bureaucratic thing there to progress that on through a duty on the Legal Services Oversight Commissioner or, indeed, the Law Society.

Having taken all those points into account, the Department still does not have a closed mind on this. I think that the Department can see merits in the recommendation by Dr Hosier in her paper. On balance, we might be able to work with the Committee on that to build something into the Bill, but we would be conscious of the fact that we do not want to make it overly bureaucratic and difficult to enforce in practice. We have already got considerable buy-in from the Law Society, which has given evidence to the Committee and has indicated that this is something that it would consider to be useful to work with the LSOC in the context of the powers already available to him or her. I think that would be the Department's preferred approach.

The Chairperson (Mr McKay): That is useful. What is missing is a duty in the Bill with regard to this level of complaints. It is an issue that has been flagged up in Scotland. I suppose that the danger is that we sign off on this now and, a couple of years down the road, say that we should have included this in the Bill. Certainly, that is something that the Committee could consider by way of amendment. Then, the Department could give its view on that. We would be more than happy to work in

conjunction with the Department on this. The second amendment is on the appointment of laypersons to the solicitors' complaints committee.

Mr M Foster: Bain recommended that the responsibility for the complaints-handling system should stay with the professional bodies but be subject to checks and balances that are set out in the Bill and the strengthened oversight provided by the Legal Services Oversight Commissioner. My difficulty with the proposal that the Law Society's lay members should be appointed by an independent body is that it takes a level of that ownership away from the Law Society. There are already considerable checks and balances in the Bill. Anecdotally, a concern has been raised that —

The Chairperson (Mr McKay): Look at it the other way: why should it rest with the Law Society?

Mr M Foster: The Law Society has been charged with the responsibility of establishing and maintaining a complaints committee to deal with complaints against its members, but in a very different way than it currently does. In other words, it does not have the same professional majority as it does at the moment. There will be a lay chair and lay majority, but, importantly, it will also be subject to a more open and transparent procedure that is overseen by the Legal Services Oversight Commissioner. None of that happens at the moment. The system for appointing all members to a solicitors' complaints committee now is not done by open competition or by Nolan principles, and the focus of the Bill is on doing that.

It is not the case that the Law Society will be able, for example — I am quite certain that it would not do so anyway — to hand-pick members to serve on the panel. The provisions in schedule 2 and schedule 3 place an onus on both the Law Society and the benchers to appoint members in a manner in which the Legal Services Oversight Commissioner will have considerable input. That is a dual approach, because not only will the LSOC have to be consulted on the appointments of the members but, importantly, he or she will have to be consulted on the manner in which members are appointed. That, I think, takes away the notion that the Law Society will be able to do as it pleases in this. The other point is that the solicitors' complaint committee is, in law, a subcommittee of the Law Society, so there would be legal issues in terms of appointing members to it from an independent body. There is also the question of which independent body would be responsible for appointing those members.

The Chairperson (Mr McKay): If not the Law Society, which would be the most appropriate body in your view?

Mr M Foster: I do not know the answer to that, Chair, to be honest. I do not think that it would be appropriate for the Legal Services Oversight Commissioner to appoint members to a committee the functions of which that postholder will be overseeing. That would have inherent difficulties attached to it because he or she would be required at times perhaps to comment on or criticise the actions and behaviours of the members whom he or she had appointed in the first place. The Law Society and the Bar, through the benchers, are both committed to working with the Legal Services Oversight Commissioner to make this as open and transparent as possible, and the provisions in the Bill will permit that to happen. The answer is that if — this maybe leads into your third point — it is shown through experience that that is not working in the way that is intended over the next three, four or five years, the Department can step in again and look at the model with a view to changing it.

The Chairperson (Mr McKay): What would be more appropriate, three years or five years?

Mr M Foster: It depends when the time starts, Chair. Considerable work will be done to get this system up and running in terms of transitional provisions to move from the old system into the new system, but the Department already has that power in place in the Bill at clause 4. We have not specified a time for any particular issue, and I do not think that we want to rigidly set ourselves a time for that.

(The Deputy Chairperson [Mr D Bradley] in the Chair)

The Deputy Chairperson (Mr D Bradley): Good morning, Michael.

Mr Wells: You will get it easy now.

Mr M Foster: I haven't in the past.

The Deputy Chairperson (Mr D Bradley): I could not possibly comment, Jim.

When the Bar Council was here, it was quite adamant that a person with a legal background — a solicitor or a barrister — should be eligible for the post of the Legal Services Oversight Commissioner. Its example was the appointment of a judge. When a judge is appointed, obviously they will have had a lifetime of experience as a solicitor, a barrister or whatever, and may have to rule on cases involving lawyers and barristers. The argument was that society trusts those people to act in a fair and impartial way. Why does DFP not trust them?

Mr M Foster: I noted that debate with interest. Our answer is that we do not necessarily disagree with what the Bar Council said. A lawyer or a former lawyer of the right ilk could, I am quite sure, perform the function of the LSOC in a very effective manner. However, the issue here, and the issue that has been constant throughout the review, has been that of perception. From the Department's point of view, we took on board Bain's very strong message that, whilst the system here was working reasonably well, there was still attached to it a perception. Its evidence suggested that it really was largely only a perception, but there was a perception that lawyers were looking after themselves. The post of LSOC is pivotal in the new system. The postholder will have considerable powers to set targets and make sure that plans are appropriate etc, and also, at the end of that, if things go wrong, will have the power to penalise the professional bodies. One would have to ask whether a member of the legal profession would feel comfortable penalising either his or her own profession or a profession of which that person was formerly a member. That is part of the problem. Of course, the other side is that the public may well look at the model and say, "Well, the person charged with overseeing the legal profession is either a lawyer or a former lawyer." From the Department's perspective, we quite clearly come down on the side of Bain; we want to avoid that perception. We want to have a system that people will approach with confidence, and there will be no hint or suggestion that the professionals are in charge of it.

The Deputy Chairperson (Mr D Bradley): The Bar Council's argument — I do not often have to argue on its behalf, thankfully — is that the position of a judge is a much more responsible position in many ways than the position of the commissioner, yet society does trust judges. I am not saying that judges are not criticised; they obviously are, and we hear that with regard to sentencing quite often. However, its argument is that judges can set aside their past careers, associations and so on, and act in a fair and impartial way, and that a person from a legal background would probably be best qualified to do that job by dint of the fact that they have that experience, so why let perception prevent us from getting the best person for the job?

Mr M Foster: I understand where the Bar Council is coming from but, at the same time, judges perform a much wider role than the LSOC. They deal with cases that go across the whole spectrum of the law in this jurisdiction. The LSOC will have a fairly confined role, namely dealing with how complaints by members of the legal profession are handled. I am not quite sure that we are comparing like with like in saying that, because judges are former lawyers, society has said that they can adjudicate on legal matters. In 99% of cases, they are not adjudicating on other lawyers; they are adjudicating on what those lawyers present to them in court on behalf of their clients. With respect, that is not the same, Chair, and I do not think that the perception issues around a judge who has reached that position after very many years of gaining experience — necessary experience — are applicable.

It would be highly unusual for a judge not to have a legal background and have dealt with highly complex legal matters on a daily basis. The commissioner will not deal with legal matters as such, but with regulatory matters. Whilst I accept the point that a lawyer could have the relevant skills and experience, as I have said, the very fact that there is a perception there is a strong point to raise in the policy. I do not think that the Department would be comfortable with the notion of appointing a lawyer as Legal Services Oversight Commissioner.

There is considerable precedent in other jurisdictions. The Legal Services Act 2007 similarly indicates that the postholder of the Legal Ombudsman in England and Wales must not be a lawyer or must never have been so.

The Deputy Chairperson (Mr D Bradley): A number of scrutiny points have been highlighted in red in the issues table. I will pick out one to start off. Where will the moneys collected from the penalties go?

Mr M Foster: Under the legislation, the plan is for the penalty to be paid to the commissioner, who must then give it to the Department. I notice that there has been some discussion from the Law Society, which asked why that money could not be put back into the complaints-handling system. We can certainly explore that in more detail, but our initial perspective is that there could be a dilution of the incentive for the professional body to improve and maintain the improvement in its complaint-handling systems if, ultimately, any penalty that it pays for not doing so is given back. Of the options available, vesting the money with the Department was the most obvious. We did not think that it would be appropriate for the Legal Services Oversight Commissioner to retain that money because there could be an issue, which was raised by the professions, that the commissioner would have a conflict of interest in issuing a penalty if the funds were kept by that body. The money going to the Department is a more neutral position.

The Deputy Chairperson (Mr D Bradley): OK. Another scrutiny point relates to the need to set out more clearly the remit of the LSOC. That is not entirely clear from the provisions in the clause.

Mr M Foster: I am happy to reflect on the content of the explanatory and financial memorandum (EFM) on that point, Chair. On reflection, there is probably more that we can say about the role. The powers of the LSOC are reasonably clearly set out in the legislation, but they could maybe merit from additional explanation in the EFM. The Department is certainly content to reflect on the EFM and make the changes that the Committee has highlighted.

The Deputy Chairperson (Mr D Bradley): OK. Another point is on page 7, which relates to the compilation of the number of complaints.

Mr M Foster: Was that the point I addressed with the Chair?

The Deputy Chairperson (Mr D Bradley): You have dealt with that already, sorry. Then, on page 9, there is a point in relation to what the Law Society said about the rationale for reporting obligations on the LSOC on the annual expenditure of that office being confined to DFP and the Auditor General. The Law Society considers that DFP and the Auditor General should take the views of professional bodies into account when considering the LSOC's financial accounts. What is your view on that?

Mr M Foster: I think, in practice, that will happen. We did not see it as necessary to include specific provision within the Bill to allow the Law Society and the Bar Council to have those fairly widespread powers. We need to strike a balance with how much the professional body is involved in the day-to-day running of the commissioner. We would certainly not want to see a situation develop in which the commissioner was placed under intense scrutiny by the Law Society and Bar Council at every point of their workload. We consider that the statutory requirements on the Department and elsewhere are sufficient to cater for that; but, in practice, both professional bodies will be involved. Those will be set out more appropriately within the levy regulations that will follow, when that sets the budget each year for the Legal Services Oversight Commissioner's office.

The Deputy Chairperson (Mr D Bradley): OK. On page 9, the Bar Council has a point that the levy for barristers should be substantially reduced. They consider that, because of the smaller number of barristers, there will be fewer complaints against them. Therefore, they would place less of a burden on the complaints system and the commissioner's office, so they should not pay as much.

Mr M Foster: I would be surprised if the Bar had indicated that it wanted to pay more. The Legal Services Oversight Commissioner will work in a different way from other bodies. That postholder will not be examining day-to-day complaints but will have an overarching strategic objective. There will be a careful piece of work to take place after the Bill to determine the precise division of the levy between the two professional bodies. It is right to say that there are more solicitors than barristers in Northern Ireland, and I am sure that that will be reflected in the amount of the levy to be placed on the Bar Council and the amount to be placed on the Law Society, but we will have to factor in the role of the LSOC, how much time the LSOC will be expected to devote to the oversight of complaints handling for solicitors and barristers, the numbers in the profession and the number of complaints that are raised. Those will all be taken into account by the Department in shaping the final figures. Those could change on a yearly basis. For instance, I know that the number of barristers has fallen by almost 100 in the last year to 18 months. I think that we need a little bit of flexibility in shaping the precise nature of the levy; but, certainly from a policy perspective, we accept that the Bar might not be paid quite as much as the society will be.

The Deputy Chairperson (Mr D Bradley): On page 10, there is the issue of the waiver. If a waiver is needed in clause 6(5)(b), why not also in 6(5)(c)? What examples can be provided of when a waiver would be appropriate? In your response, you do not have a direct example of when a waiver would be appropriate, and yet you have retained that power in the Bill.

Mr M Foster: You are right to say that it is a power in the Bill. The provision says that the rules "may" provide when a waiver would be appropriate. The answer is that the norm will be that a waiver will not be required, but we have to allow for every possibility in the Bill. We noted that the English provision, which this is quite similar to, contained a provision that allowed a waiver. In theory, you could have a situation — I am just trying to think of an example — where perhaps the Legal Services Oversight Commissioner's work in a year was disrupted for a particular reason and the amount of the levy would therefore be set aside, in a small amount, after it had been paid, for example. So, I think that we need that flexibility in there to capture all potential outcomes; but, at this moment, we do not envisage when a waiver would be used or applied. Nevertheless, it is helpful to have the provision there to allow regulations to account for it in due course.

The Deputy Chairperson (Mr D Bradley): Also, on page 10, there is the question of absolute privilege cover. Can an assurance be provided that it does not give privilege to bad faith or gross incompetence? How does the provision apply to people from whom the commissioner got information? Does the privilege also protect the information originator?

Mr M Foster: The answer to your first question is that absolute privilege would not extend to bad faith or gross incompetence. However, this is a matter on which the Department is content to reflect. We have taken on board the Committee's points of view on this and also the views of the Law Society, and this is certainly something on which I will be recommending that the Department considers an amendment, to remove the absolute privilege to something along the lines of what the Committee has helpfully pointed the Department to in the Scottish legislation. I intend to work with the legislative counsel on that, to see if we can bring forward an amendment that satisfies the Committee.

The Deputy Chairperson (Mr D Bradley): OK. Clause 11 deals with complaints procedures for barristers. Clause 11(1) states:

"The General Council of the Bar must make provision requiring every barrister to participate in, or make arrangements to be subject to".

What is intended here? What is the difference between "participating in" and "being subject to"?

Mr M Foster: I think that it is just the form of words that we use to capture the policy point that all barristers who are in private practice and providing services to the public should be subject to a complaints system.

This is really there to cater for the fact that, whilst the solicitors have an in-house complaints-handling process, barristers do not. In other words, if you go to your solicitor, your first port of call will be to make your complaint to the solicitor. With barristers, the situation is slightly different because all barristers are self-employed and they are all single entities. So, for each of the 650 or so barristers in Northern Ireland to have their own complaints-handling system would be fairly anachronistic. The alternative policy position is that they make themselves subject to a first-tier process, if you like, which the Bar Council has agreed to assist with. That will allow scope for informal resolution of complaints before they proceed to the Bar complaints committee. That is the purpose behind that clause: it is to replicate the provisions for solicitors, who have the in-house body, and to have something of a similar nature for barristers.

The Deputy Chairperson (Mr D Bradley): OK. Clause 11(1) states:

"such person or body as may be specified by the General Council of the Bar, and provision must be made ... for the enforcement of that requirement."

Does that mean another layer of bureaucracy?

Mr M Foster: No, it does not. Again, this is a matter that the Department is content to reflect on, in terms of how it is explained within the explanatory and financial memorandum. In real terms, the system is quite straightforward. If you have a complaint against your barrister, except under unusual

circumstances, you will raise that complaint with the barrister through the Bar Council, and an attempt will be made to sort it out to the satisfaction of both parties. If that does not work, we move into the formal procedure, and the complaint will be referred to the Bar complaints committee. There is no additional layer of bureaucracy. It is simply repeating in law the provisions that exist for solicitors who have their own in-house procedure. The EFM will seek to tease that out, but, in practice, it will be informal with your solicitor or barrister in-house/through this process, and then, if still not satisfied, move on to the solicitors complaints committee and Bar complaints committee.

The Deputy Chairperson (Mr D Bradley): Do any members have questions?

Mr Wells: There is not much left after that, I can tell you.

The Deputy Chairperson (Mr D Bradley): I am not finished yet.

Mr Wells: Will you take the job?

Mr M Foster: I am unable to take the job because of the statutory requirements.

Mr Wells: I do not think there is much that has not been covered.

The Deputy Chairperson (Mr D Bradley): I will go back to the issue of a review mechanism in the Bill. Is there any way that clause 4 could be strengthened to require an independent review within a specific period — say, five years?

Mr M Foster: We explored that in the initial policy groundings of the Bill and felt that it would be too restrictive to set a date in primary legislation. The Department is happy to put on the record that this system will be reviewed not just under the usual system of post-legislative reviews but in a more meaningful way as we see how it develops over the next three or four years.

We have that provision in clause 4, which is useful. The Department can ask the Legal Services Oversight Commissioner to carry out work in not just that area but any area relating to the organisation or regulation of the legal professions. That was brought forward partly because the Department felt that it would be helpful to have a review of the system in due course but also to cater for other areas that may fall within the remit of the professional bodies' regulation.

The Department is committed to a review within a period of time, but I do not think that we would be keen to specify that that review must take place on a certain date.

The Deputy Chairperson (Mr D Bradley): What is the problem with putting a time on it?

Mr M Foster: You would need to explore what the review would be. If it is a review of this system, it would be unusual to have, in primary legislation, that as a duty on a postholder. We do not want to necessarily be putting a gun to the head of the legal professions and saying, "This had better work or else in five years' time we are putting something else on board." Considerable goodwill has been built up with the Law Society and the Bar Council.

The Deputy Chairperson (Mr D Bradley): Some people might say that that is a good idea.

Mr M Foster: Yes, I can understand that as well. However, there has been considerable discussion with the Law Society and the Bar Council about this model over the last number of years. We have considerable buy-in from both branches of the profession. I would want to see that good work continue. I do not want to be almost playing devil's advocate by saying, "You know, there's a time frame here within which you must make this work or else".

We have that facility already. Both branches of the profession know that, if this does not work in the way in which it was imagined by Bain and intended by the Department, there is the facility for it to be looked at again.

The Deputy Chairperson (Mr D Bradley): Clause 4, as drafted, places the responsibility with the oversight commissioner and DFP. Would DFP amend clause 4 accordingly?

Mr M Foster: Sorry, I am not quite sure that I understand that question. Amend it in which way?

The Deputy Chairperson (Mr D Bradley): Sorry, I think that we have covered that issue anyway. Are there any of the other scrutiny points that you would like to respond to?

Mr M Foster: No. It has been a very helpful exercise. The Committee set out in detail some of the scrutiny points in relation to specific aspects of the Bill. The Department's response covers, I think, the vast majority of those issues. We are certainly content to share with the Committee some of the amendments that we have looked at. I think that one, in particular, has caused some interest among a number of parties, and that is clause 17(4)(a).

The Deputy Chairperson (Mr D Bradley): That is the one about vexatious litigants.

Mr M Foster: Vexatious complaints. We have looked at that again, and I think that it is open to different interpretations. The very fact that it is open to different interpretations will, I think, lead the Department to agree to take forward the suggested amendment that the Committee is minded to make, and that is to remove some of the words at clause 17(4)(a) to reflect better the description that follows at clause 17(5). Again, we can come back to the Committee with the text of the amendment.

The Deputy Chairperson (Mr D Bradley): Dr Hosier raised that issue and pointed out:

"This clause requires amendment, as it is not possible for the Bar Complaints Committee to reasonably form the view that a complaint is either frivolous, vexatious or totally without merit unless it has firstly considered its merits."

She suggested the deletion of the words "without consideration of its merits" in clause 17(4): would that rectify the problem?

Mr M Foster: Yes.

The Deputy Chairperson (Mr D Bradley): OK. So you will give consideration to that.

Mr M Foster: Yes.

The Deputy Chairperson (Mr D Bradley): Thanks.

On page 19, the Law Society refers to clause 19(2)(a) on the provision for the complaints committee to direct a legal practitioner to issue an apology to a complainant. The Law Society proposed an amendment to remove the ability for such apologies to be used as evidence of liability in civil proceedings. What is the Department's response to that?

Mr M Foster: The Law Society has raised that with the Department on a couple of occasions. It first was looking for a clause similar to section 2 of the Compensation Act 2006 in England and Wales. The Department took the view that that section needed to be considered within the context of that Act and that this Bill is set in a different context. Again, the Department definitely does not have a closed mind on that. The aim is to encourage lawyers to apologise where something has perhaps gone wrong, and we can accept the overall point that we would not want that to necessarily mean that they admit that they are liable for anything. An apology can take place for a variety of reasons, none of which attracts any level of liability on the part of a solicitor. So, we would certainly consider anything that can soften that clause. I am happy to reflect with legislative counsel on a suitable clause, if that can be done from a policy perspective.

The Deputy Chairperson (Mr D Bradley): So there is a possibility of an amendment to that.

Mr M Foster: Yes, we will definitely give active consideration to that. I do not have a particular form of words yet. The Apologies (Scotland) Bill, which the society now refers to, is much broader legislation that will govern all sorts of things, but I think that the Department understands the aim of what the Law Society is trying to achieve.

The Deputy Chairperson (Mr D Bradley): There is also an issue about the definition of "complaint" in section 46 of the equivalent Scottish Act, which defines a "complaint" as widely as "any expression of dissatisfaction". Has the Department given any further thought to the definition of a complaint?

Mr M Foster: We have certainly given further thought to it. I think that I have consistently said to this Committee that I do not think that defining "complaint" will add much value to the legislation, and we certainly do not want to see a situation where people rely on a definition of "complaint" to not hear a complaint, if that makes sense. The very fact that it is not defined allows any proper complainant to raise their concerns, and a complaint takes so many different forms and different shapes and varies so much in detail. There would be no difficulty, I suppose, in saying that a complaint is any expression of dissatisfaction along the lines of the Scottish Act, but I do not have a clear understanding of how that will further the aims of this Bill. One also has to take into account that section 46 of the Scottish Act is not simply defining a complaint. Section 46 is the interpretation section of that particular Act, which defines any number of different terms in the Bill, of which "complaint" is one.

The Deputy Chairperson (Mr D Bradley): Do you not agree that that wide definition in the Scottish Act is more likely to cover a whole range of complaints that people might have and perhaps encourage people to complain?

Mr M Foster: The word "complaint" is used throughout this Bill. I would not want to even begin to sit down and count the number of times that "complaint" is used in the Bill, but I do not think that there will be any doubt for anybody using this scheme that it is there to hear their complaints. As I said, I do not see any strong value added. At the same time, I do not necessarily see any negatives to defining the word in the Bill, but it is not defined in the English legislation, and I am not aware of it being defined in the draft Bill that is currently in the Republic. In Scotland, it is confined to one of a range of terms in the interpretation section.

The Deputy Chairperson (Mr D Bradley): On page 29 of the issues table is the question of time limitations and their inclusion in the Bill. What is your response to that?

Mr M Foster: My view on that is that the right people to determine the time limits for complaints to be heard are the solicitors complaints committee and the Bar complaints committee. I think that you heard from the Scottish Legal Complaints Commission that one of the difficulties that it faced in relation to its legislation was that too much of it was in the primary legislation. This is an example of where the time limits are left to subsequent rules, and I think that a former member of the Committee was quite keen to see a lot of the Bill's measures not be prescribed in the Bill. Certainly, time limits is one of those. If you start trying to prescribe a certain time limit in a Bill and the practice shows that that time limit is either too short or too long, you have to come back to the primary legislation. If it is set in rule, it is the people who are running the complaints committee itself who will be able to say what is a reasonable time for complaints to be brought forward.

The Deputy Chairperson (Mr D Bradley): Thank you very much, Michael. No doubt you will provide us with any further information requested.

Mr M Foster: I am certainly happy to do that.

Mr Wells: Michael, I have been here 21 years, and that is one of the best evidence sessions that I have heard. That is why there are no questions from this side.

The Deputy Chairperson (Mr D Bradley): That is a compliment, coming from Mr Wells.

Mr M Foster: Thank you.