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

I feel it important to express my concern about this bill. Already there are areas of law and areas of the country where individual citizens cannot obtain proper legal representation. The inevitable result of the bill becoming law in its present form is that the supply of legal advice will sharply diminish and that is very much against the public interest.

I work in a firm of solicitors where we act largely for individuals. We fully recognise that if an error made causes loss, compensation should be paid. What cannot be acceptable is for the proposed new commission to have power to impose a penalty of up to £20,000 without proof of fault or loss. It is particularly concerning that there would be no appeal available against any such decision. Right-minded individuals would be troubled at the idea that the funding of the commission should be dependent on payments based on the number of complaints made against a firm, even if those complaints were wholly unjustified and were rejected.

Reluctantly we may have to consider the route that other firms have had to follow and cease dealing with certain areas of law. It will be simply impossible to take the risk that a client, already finding themselves in troubled circumstances, will not complain about the outcome of their case if it does not meet with their approval. Our job is not always to achieve an outcome that is to a client’s liking but to either provide bad news in any event or at best make for a damage limitation of their predicament. Whilst most clients can appreciate that this is the best they can hope for and acknowledge that you will do your best for them, sadly, not all do and they will complain.

There is also a lack of detail about just how the proposed new commission would operate and be funded. How is it possible for the commission to command support from all interested parties, the public and the legal profession alike, if this is not made clear? Such a system cannot be imposed upon us without proper consultation on its appropriateness or otherwise.

Of wider concern also and of personal concern is the threat to the supply of solicitors providing pro bono legal services. Many solicitors, myself included, give of our time on a voluntary basis to assist charities and other organisations. This is a valuable service to either these organisations directly or the members of the public who use their services. I am concerned that there is the possibility that any advice that I give which may not be to a person’s liking may be a possible subject of a complaint, without foundation and without right of appeal. I may have to take a very difficult personal decision and end my voluntary work or be expected to do so. Solicitors undertake such pro bono work to give something back to the Community. The wider public will not be served well by the imposition of this bill.

I trust that the Committee will have regard to my comments