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

I write 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 am a partner in a firm of solicitors where we act largely for individuals, often in difficult circumstances. 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. I understand that the proposal at present is that no appeal is available against any such decision. This is a breach of natural justice. If such a penalty were to be imposed in circumstances where the decision was erroneous it could lead to serious difficulties both personal and professional for the individual solicitor involved.

I understand that the funding of the Commission is dependent on payments made by the profession in respect of each individual complaint, notwithstanding that these complaints may subsequently be regarded as wholly unjustified or rejected. This must also be a breach of natural justice.

There is also a lack of detail about just how the proposed new commission would operate and be funded. It is vital that such detail be provided now, so that the commission can command support and confidence from both lawyers and the public. The apparent reason for the new commission is to give a perception of independence from the legal profession. Without full transparency, the public perception of the new commission would be fatally flawed from the outset.

I trust that the Committee will have regard to my comments