Submission from David R McDowall for the Legal Profession and Legal Aid (Scotland) Bill

I am a practising Solicitor and Senior Partner of Messrs Black Hay, Solicitors, Ayr and Prestwick. We also have our own Estate Agency branch here in Ayr.

I would confirm that my four Partner concur with me in the terms of this letter and we in turn would wish to associate ourselves with the views of the Law Society of Scotland, who have made detailed submissions to you in relation to various aspects of the Legal Profession and Legal Aid (Scotland) Bill.

With regard to the specific issue of handling complaints, my Partners and I believe that the Law Society have worked very hard in recent years, in conjunction with the Scottish Parliament, to improve the complaints handling system at the Law Society. It has been shown time and again that only a very small percentage of the thousands of legal transactions carried out in a year ever come to the stage of a complaint. The compensation levels under the present system were raised quite substantially in recent years but the new compensation level proposed under this Bill is completely out of proportion to the sort of issues which generally lead to a complaint.

I believe that my Firm here in Ayr and Prestwick are just exactly the sort of Firm who would find it very difficult to bear this level of compensation if a successful complaint was made against us. I believe my Firm has a good track record of looking after clients' interests and I believe that our claims and complaints record is very good. However, over a year of considerable transactions, it is statistically almost impossible to avoid the situation where a client is dissatisfied with what has been done and if we were to be hit with this sort of level of compensation then it would put our business viability in jeopardy. We employ approximately 25 staff over our three offices. We are busy offices and I and my Partners put in a lot of hours to meet our clients' needs. I believe we do not charge "city prices" because we are largely involved in private client work. If compensation is awarded along the lines proposed then frankly we could find our business in difficulty for what might turn out to be a relatively minor complaint. I think it has to be borne in mind that we in the rural practices are the Firms who generally handle private client work and are therefore more likely to come across a disaffected client. The large city practices tend to be dealing largely in commercial work and if something goes wrong, the commercial client tends to go elsewhere. Commercially, that seems often to be the
end of the matter, but in dealing with private client work, a dissatisfied client might be inclined to complain to the new Commission.

I have acted for MSPs and for a number of Local Councillors and I believe that everyone has been satisfied with the work that I have done. I am sure that MSPs throughout the country will have regular dealings with their own Solicitors and I would like to think that again those MSPs have always been satisfied with the work done. I would accordingly ask your Committee Members to stop for a few minutes and think about that situation. The Law Society has already pointed to the large number of transactions carried out in a year and the fact that very, very few of those transactions ever give rise to a complaint. I would hope that your Committee members would try and think that the Solicitors who are being targeted by this new legislation are the very same Solicitors as they contact in the course of a year for assistance with conveyancing or Wills or winding-up estates. I would ask your members not to think of "Solicitors" as some faceless group of people who do nothing right and need to be punished when things go wrong. We, the Solicitors around the country, are the same people as carry out the necessary legal work over the years for MSPs and their families and for all your constituents and I am sure your Committee Members will know that these are Solicitors working hard and providing a good service to the people of Scotland.

I hope your Committee will take these comments on board and that the final legislation will adopt the various changes which have been suggested by the Law Society on behalf of Solicitors and will also reflect the fact that we are good employers trying to do our best for our clients in a situation where the profit margins in our country practices are not substantial.