Submission from Paul Carnan for the Legal Profession and Legal Aid (Scotland) Bill

As a Solicitor in private practice in Glasgow, I would like to bring to the attention of the Committee several areas of concern with the proposed Bill.

1. There is strong public interest in the fairness of the administration of justice. The proposals as contained in the Bill fail to meet that interest because, as presently proposed in the Bill:
   - In its proposals to establish a Scottish Legal Complaints Commission (SLCC), the Bill dictates that all the costs in investigating any such complaints must be borne by one side (i.e. the solicitor), whether or not the complaint is upheld. This is patently unfair.
   - There is no indication that cases will be decided according to law. This is patently unfair.
   - There is no guarantee that basic principles of fair procedure will be applied. This is patently unfair.
   - The lack of an external appeal from a determination by SLCC to uphold a service complaint is not compliant with the European Convention on Human Rights.
   - The SLCC will not be independent and impartial if, as proposed, appointments to its Board are made by Scottish Ministers.

2. Economic impacts

If the Commission is established with the powers as are presently proposed in the Bill, this will have a direct economic impact on my practice as follows:

   - If I have to contribute a levy (general or specific), then that additional cost will have to be passed on to clients by way of additional fees.

   - I would have to consider whether or not to continue with certain types of work e.g. routine domestic conveyancing which often involves demanding clients and is likely to lead to a complaint more than other types of work as it may present too much of a risk for too little return. If many small firms retreated from such work, it may prove more and more difficult (and more and more expensive) for the public to obtain independent advice about particular types of business.

I hope that the Committee will give due consideration to these concerns as they deliberate on the passage of the Bill.