Submission from Mark Webster for the Legal Profession and Legal Aid (Scotland) Bill

After more than 30 years in the legal profession I find myself more astounded by the above proposed legislation than by anything else that has preceded it and certainly far more astounded by it than by anything else which has been put before the Scottish Parliament. It appears to me to run counter to natural justice and counter to what I would have expected to have been the considered views of MSP's. Briefly I mention the following points:-

1. Cost

The proposal for the legal profession to bear the cost of the intended new Complaints Commission is unjust and inequitable. What other trade or profession is subject to the same complaints procedure?

The proposed scheme would open the way for even more vexatious and wholly inappropriate complaints. Yes, there are many genuine complaints which require investigation but there are a very significant number which should never be made. I have a real concern that the proposed new Commission would have procedures which would prolong investigation of such "complaints" which would only add to overall cost.

2. Proposed Compensation Levels

These appear to be wholly out of line with what is appropriate.

Other matters could be raised regarding, for example the proposed oversight of the Master Policy and the Guarantee Fund. Again these are inappropriate in the light of Scottish experience.

The present system is certainly not perfect but it has improved very significantly in recent years. It would be much more sensible, and practical, to continue with the improvements to that system and, yes, require suitable targets to be achieved. Much better this than go overboard into a wholly untried system.

Much more important to my mind is focusing attention on those individuals and organisations which provide legal advice or quasi legal advice, often seeking out vulnerable adults, but for whom there are no compensation provisions whatever. With increasing numbers of frail and vulnerable elderly people, this is a much more important matter to be addressed. Systems are in place to tackle issues relating to solicitors but there are no provisions at all to deal with this problem.

The Parliament requires to take a deep breath, stand back and look at a broader overall pictures.