Submission from Mhairi Jackson for the Legal Profession and Legal Aid (Scotland) Bill

I write in relation to the above. Whilst I support the establishment of a service complaints handling body independent from both the Legal Profession and Scottish Ministers I am of the opinion that the proposed Bill is inherently unfair to the Profession.

In particular it is unfair that a Solicitor is required to pay his or her share of the costs of the proposed Scottish Legal Complaints Commission (SLCC) whether or not the complaint succeeds or fails whereas the client will have his claim investigated and presented to the Commission entirely free of cost or risk. It seems iniquitous that all the costs must be borne by one side whether the claim succeeds or fails.

I have concerns that cases which come before the Commission will not be decided according to the law and it does seem that the proposed system is a breach of natural law. I would question the validity of a system which does not permit an appeal on facts and law and cannot see how this can possibly be compliant with the ECHR. I take no consolation from the proposal giving power to Scottish Ministers to remove appointees they consider unfit and I object in principle to Scottish Ministers being involved in the appointment of the members of the Commission. It will prove to be another costly government quango.

The purpose of professional discipline is to maintain high standards of conduct from those within the profession. It is not intended to compensate clients. The Bill confuses professional discipline with compensation for clients. Other mechanisms exist in respect of compensation for clients. It is not the function of the Law Society to impose fines or award compensation. The Law Society is our professional body and should represent the interests of its members. Imposition of fines is the function of the independent Scottish Solicitors Discipline Tribunal.

If the Bill is permitted to stand in its present form the Scottish Parliament itself will be brought into disrepute when the SLCC is found to be contrary to the ECHR. The SLCC will prove a costly exercise which Solicitors will be expected/forced to fund.