Submission from Lorna Buchan 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.

As a Family Lawyer, I work in a firm of solicitors where we act solely for individuals who are, often in difficult circumstances. I 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. It is particularly concerning that there would be no appeal available against any such decision - this is not compatible with the European Convention of Human Rights. Right-minded individuals would be troubled at the idea that the funding of the commission should be dependent on payments based on the number of complaints made against a firm, even if those complaints were wholly unjustified and were rejected.

Like many other firms, our firm is already declining to act in Legal Aid cases. I am happy to provide a high quality of service to clients but work down under Legal Aid is often unpaid and regularly challenged by SLAB on submission of an account. The nature of work we do means that our clients already feel aggrieved about something and may well complain about our services if the outcome is not to their liking.

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