Submission from A McEwan for the Legal Profession and Legal Aid (Scotland) Bill

I am writing to submit my views on the above bill. From consideration of its terms the Bill is potentially in breach of Human Rights legislation due to the lack of an appeals process. It is inequitable in that the cost of complaints is met by the complainee (either the legal profession as a whole or individuals pursuant to mediation) rather than the complainer - irrespective of merit. There is a lack of independence from Government which given current public concerns about undue influence in public life is a grave defect.

Determination of negligence is and should remain a matter for the courts. Given that central government is determined to make it more difficult for it to be held responsible for its own negligence and to pay less when it is caught out (miscarriages of justice) then this present draft legislation smacks strongly of one rule for legislators and a different rule for others.

The proposed levels of compensation for inadequate professional service are absurdly large. I have no doubt that this will drive solicitors away from certain practice areas and will render certain forms of work - and possibly entire practices - uneconomic. This legislation will reduce client choice and access to legal services which is contrary to what our democratic system and representatives should be seeking to achieve. In all areas it will cause solicitors to practice more defensively with an inevitable deterioration in the value and effectiveness of the service to the Scottish people. It will undoubtedly increase costs to clients.

Much of this bill is unnecessary and wrong. Whilst the objectives behind it are laudable the terms of the bill actually do more harm than good.