Dear Sir,

LEGAL PROFESSION AND LEGAL AID (SCOTLAND) BILL

On behalf of The Royal Faculty of Procurators I submit the following arguments and comments on the above Bill for consideration by the Justice Committee.

We believe that the effect of the proposals in the Bill if they remain unchanged, will prove to be damaging to the independence and effectiveness of the legal profession in Scotland. These proposals are not in the Public interest.

I ask the Committee to consider these scenarios:

1. Access to justice may very well not be available equally for all members of the public in Scotland as a result of the Bill’s proposals. Solicitors will be unwilling to take on the full scope of work which they presently carry out for the public, nor is it likely that they will be able to continue to carry out any pro bono work, which they now do. Rural solicitors and those in smaller towns and indeed smaller firms in larger towns and cities may not be able to bear the additional costs, of financing this new Committee.

2. New entrants will be discouraged from joining the profession, resulting in a smaller profession. That is not in the public interest. I believe that in the formulation of this Bill more attention has been paid to the interest of the consumer largely discounting Public Interest. Consumer interest is quite different to the interest of the public. The provisions of the Bill do not take proper account of public interest.

The proposals which address these matters but fail to protect the Public and profession alike are as follows:

1. All the costs must be borne by one side, whether or not the claim succeeds.
2. There is no indication that cases will be decided accordingly to the law.
3. There is no indication that the basic principles of fair procedure will be applied.
4. There is no appeal on the facts and law to a legally qualified body.
5. Those who decide compensation claims must be appointed independently of politicians.

6. If complaints can be made without penalty to the complainer then there is every incentive for a client to complain in every case, no matter how trivial. He/she will have nothing to lose. This will result in a far heavier case load than I am sure presently is anticipated with escalating costs, to be unfairly be borne by the legal profession.

7. It seems that the provisions of the Bill dealing with the foregoing may not be ECHR compliant.

I hope that the Committee will consider these comments. If I can provide any further information or evidence please let me know.

Yours sincerely

P MICHAEL SAMUEL