The Clerk
Justice 2 Committee
Scottish Parliament
Holyrood
Edinburgh EH99 1SP

19th April 2006

Dear Sir

The Legal Profession & Legal Aid (Scotland) Bill

I write in response to the general call for evidence and comments on the above Bill.

I am a solicitor in English law, admitted in 1995, and have recently returned to Scotland, from having lived and worked in London for 11 years. I have now qualified to be admitted as a solicitor in Scotland, but am presently employed as a Case Manager in the Client Relations Office of the Law Society of Scotland. My comments are personal, and do not purport to represent the views of Society. I understand that the Society has submitted a response on its own behalf and on behalf of the profession.

I have first hand and recent experience of the practical consequences of the reforms of the Legal Aid system in England. These have severely restricted access to justice for those who cannot afford to pay, under the guise of setting up a “community legal service” and fighting waste of public funds. I would be deeply dismayed if I were to witness the Scottish Parliament simply copying the mistakes made in England.

Before proposing any changes to the Legal Aid system in Scotland, the Justice 2 Committee should consider very carefully whether the proposed change will indeed have the intended effect. The Committee should consider the information available from the Law Society of England and Wales about firms abandoning Legal Aid work in England. The Committee should in particular consider the consequences this has had in rural England.

I know that Legal Aid solicitors in England were committed to working within the (ever evolving) new system, and the Law Society of England and Wales did not resist the initiatives. However, in practice, more and more firms which had traditionally done Legal Aid work found the new system not economically viable.
This did not mean that the firms did not make enough money for the partners to continue to enjoy fat drawings, it meant that solicitors had to subsidise the system in order to be able to continue to provide a comprehensive legal service. This could not continue indefinitely. It has become harder and harder for ordinary members of the public to get the legal help they need. Organisations like the CAB have a role in providing basic legal advice in the community, but they are no substitute for public funding for representation by a solicitor.

After the reforms began, my previous firm, one of the largest and oldest private client firms in east London and Essex, subsidised its criminal law department and public law family department for several years, then eventually gave up the provision of those services to the community. There is only one single firm in whole of the city of Oxford, which does family law work on a Legal Aid basis.

There is no merit whatsoever in taking decisions on access to justice on the basis of what is most likely to appease the interpretation of public opinion set forth by the press.

This principle applies equally to both parts of the Bill. It is folly to proceed on the basis that it is easier to agree with a public misconception, rather than to put forward a more complex argument, which actually in the end will serve the public interest better.

The voting public is made up of solicitors, doctors, shop assistants, tax drivers etc. Would a taxi driver be content to have a journalist decide whether he should have to pay a fare back and compensation, when a passenger complained that the taxi driver didn’t take him the most direct route to the destination? Would a taxi driver be content for a politician to decide what the most direct route actually was?

If the motivation for setting up a new body to police a profession is to appease consumer opinion, rather than to ensure continuing high standards in the profession, there will not be a happy ending for the consumer.

Yours sincerely,

Ruth Ross-Davie