I wish to comment on the proposals contained in the Legal Profession and Legal Aid (Scotland) Bill as follows:

I am the Managing Partner of Blair Cadell Solicitors. We are a firm of 4 partners with a staff of 20, working from two offices, and undertaking a range of private client, residential and commercial property and business services. I am also the Client Relations Partner of the firm.

- My colleagues and I strongly support the proposal of the setting up of a new Scottish Legal Complaints Commission, clearly independent of the Law Society of Scotland. This answers what I have long regarded as the paramount need to go at least some way to redressing the fundamental public perception (however unjustified this may be) that in handling complaints against solicitors, the Law Society of Scotland cannot possibly be impartial, and will always in some way be “just looking after their own”.

- In principle, an independent SLCC, properly constituted and fairly regulated in its own right, should eliminate this ever present negative spin in the matter of Inadequate Professional Service complaints. In my view, and my experience in complaint handling, this should provide better opportunities for mediation and dispute resolution from the start.

- IPS complaints do actually arise in a very, very small percentage of cases when considered against the overall body of work carried out by Scottish Solicitors. The removal of a substantial and erroneous negative perception about the conduct of IPS complaints has to be a good thing.

- The LSS will of course quite rightly continue to look after the issues of Professional Misconduct and Unsatisfactory Professional Conduct (PM/UPM).

- The above principle aside however:

  o I very strongly object to the proposal for an arbitrary 400% uplift in the compensation limit from £5,000 to £20,000. Such a figure appears to be penal in nature, and surely does not bear any relation to the scale of acceptable compensation in the vast majority of IPS complaint situations. This sort of potential liability would have a very significant and negative impact on solicitors firm’s risk assessment.

  o If the profession at large is receptive to the idea of the SLCC, and by extension, the additional funding cost that it is likely to bring upon itself as a result (also bearing in mind that the profession’s support is for a means of improving public perception, in circumstances where the public are in fact already very well catered for under the long standing present system) I think that it is only right that the levy system is both fair and reasonable. There is much work still to be done here, particularly in regard to the operation of the “specific levy”.

    - Further detailed analysis and justification of cost-benefit is required.
    - It is patently unfair and unacceptable that a solicitor should be faced with a levy (possibly at a penal rate) whether or not a complaint is upheld.
    - Vexatious or trivial complaints must be filtered and ruled out.

  o There cannot under any circumstances be a blurring of the line between IPS and PM/UPM issues. The SLCC deals with the former, the LSS with the latter. I do not agree that the SLCC should have any influence in the latter.
Otherwise we are no longer a self regulating profession; and that is a fundamental issue (not just for solicitors) which the present proposals should not (and did not set out to) be concerned with.

- The arrangements under the Guarantee Fund and Master Policy are tried, tested, fair, effective, efficient, and admired by jurisdictions outside Scotland from both profession and public points of view. There is clearly no need for review here, or justification for the SLCC to be involved with the running of these matters.

I hope that these comments will be of note and assistance to the Committee.