Submission from Caroline Watt for the Legal Profession and Legal Aid (Scotland) Bill

I write to put forward my concerns with regard to the draft of the proposed bill which I believe I share in common with many other solicitors. These concerns are as follows:-

In the event that a client is disappointed, whether justified or not, in the way that his solicitor has acted the client can raise proceedings for negligence or complain to the Scottish Legal Complaints commission. The client will clearly complain to the SLCC if the claim if for less than £20,000 as the client then incurs no risk or loss.

All costs require to be borne by the solicitor whether the complaint is successful or fails, meaning the solicitor subjected to a nuisance or unsubstantiated claim still needs to bear the cost of the complaint.

There is a strong public interest in the fairness of the administration of justice. These proposals fail to meet that interest because, contrary to the present proposals in the Bill:

- All the costs must be borne by one side whether or not the claim succeeds
- There is no indication that cases will be decided according to the law
- There is no indication that basic principles of fair procedure will be applied
- There is no appeal on the facts and law
- Those who decide compensation claims must be appointed independently of politicians

The purpose of professional discipline is to ensure that members of the profession maintain high standards of conduct. It is not to provide compensation for clients. The Bill as it stands wrongly confuses professional discipline with compensation claims. Other mechanisms exist for that. The Law Society should not have power to award compensation, nor to impose fines. Imposition of fines should be left to the independent Scottish Solicitors Discipline Tribunal.

What is proposed is to set up a body financed by solicitors, controlled by others, and accountable only to politicians, but not to solicitors. This system can have only one result - runaway costs. These are likely to escalate far beyond present levels. This will act as a strong disincentive to solicitors to operate in areas of work where the returns are low. In consequence the Bill in its present form will impede access to justice.

I trust that the above comments will be taken into account during final consideration of the bill.