Submission from Leslie Deans for the Legal Profession and Legal Aid (Scotland) Bill

I write on behalf of Messrs. Leslie Deans & Co, Solicitors of 3 St Patrick Street, Edinburgh, at the invitation of the Law Society of Scotland. It has been suggested that the Profession as a whole submit written responses to the Bill to the Justice 2 Committee, obviously in the perhaps vain hope that the Committee is prepared to take heed of the not inconsiderable concerns which the Society has already expressed on behalf of the Profession.

It is not my intention here to repeat the various points of concern, in respect of which the Society has already gone into great detail. For the record, I would merely echo and endorse those concerns. What I do find disturbing is the 'cloak and dagger' manner in which the Executive appears to be rushing headlong yet again into legislation, having invited consultation and comment from the Law Society and having then ridden roughshod over any constructive advice which may have been forthcoming. Without wishing to digress, the present situation somewhat mirrors the public relations disaster (as yet) which has been the introduction, against all measured and objective criticism, of the single survey/seller's pack. No, in our ever litigious and 'someone must pay' society, the Executive appears determined to push on with the imposition of an 'independent' complaints body for reasons which, while disguisedly altruistic, are perhaps more political. Indeed, even the question of whether or not the new body is truly independent has been called into doubt. Legal advice has been sought, obtained, and largely ignored, as indeed have the views and opinions of the Law Society of Scotland, a body whose experience and insight into all matters regarding the Profession is unparalleled. The question must be asked why the Society was consulted and its views invited at all, when at the end of the day the resultant proposals go some way beyond those of the Society. Is this 'knee-jerk' legislation of the vote-winning variety? Is it part of the creeping 'anglicizing' of the Scottish legal system? Is it a genuine and laudable attempt to provide a proper, fully accountable and fair system for public redress? I leave the question open.

Should the tone of this letter strike you as sceptical, even cynical, I would immediately seek to take a more constructive, nay entreating, stance. The Law Society and the Profession as a whole do have genuine and well-meaning concerns about the scope and content of the Bill. These have already been set out cogently and in detail by the Society. Lawyers in general do have the interests of their clients at heart - we are not on the whole a club riddled with self-interest, and both the Profession and the Society do genuinely take all reasonable steps to satisfy both clients and the general public. Trust and good conduct go to the heart of the Profession - it is simply not possible to practise successfully otherwise. Even in answer to the cynics, it simply does not pay to be anything other than honest and diligent in today's competitive and, as I have suggested, litigious world. The Law Society in that respect has been utterly robust over the years in its supervision of the profession and its management and handling of complaints and conduct issues, and it is in this context that the Society has offered what it has, in its experience and judgement, perceived to be the best way ahead. It should not be forgotten that in principle, the Society is realistic and does support the creation of an independent (in the true sense of the word) body to oversee the complaints handling process. However, if the Executive is at least prepared on the face of it to consult with the Society, it will do no-one, least of all the public, any good whatsoever if any constructive criticisms are simply ignored or overridden. Surely, on a long-term view (and this must be regarded as an exercise for the long-term) it is vital that the greatest care and attention be taken to ensure that the proposed legislation is absolutely right, or as right as may be possible taking all interests into account. And yes, these would indeed have to include the interests of the legal profession, whose members after all are the 'defenders' when it comes to complaints and who comprise individual human beings whose own rights have to be taken into account - it is a question, as always, of balance. Above all, and in essence, any legislation has to work.

Among other things I opened by using the words 'vain hope'. It is genuinely my sincere hope that this submission on behalf of my firm, and the submissions of others, will be taken on board and listened to. I would urge the Executive to do all it reasonably can to continue to discuss and liaise with the Law Society of Scotland and to take careful heed of its recommendations - its views are, I believe, generally representative of the Profession and are both seriously and sincerely held.