Submission from Jennifer Martin for the Legal Profession and Legal Aid (Scotland) Bill

I object to the proposed bill and endorse the objections raised in the attached note by the dean of the faculty in Glasgow

NOTE ON LEGAL PROFESSION AND LEGAL AID (SCOTLAND) BILL

BY THE DEAN OF THE ROYAL FACULTY OF PROCURATORS IN GLASGOW.

I believe that the following issues are the most important emerging from this Bill.

1. Suppose a client believes that his solicitor has acted in a way that has disappointed his or her expectations, and that his solicitor has not attended to matters as the solicitor should have done or that the advice given has been wrong. The Client wants to take action. What will the client do?

2. Will the client raise proceedings for negligence in court or make a complaint to the Scottish Legal Complaints Commission (SLCC)?

If the amount of the claim is likely to be less than £20K the client will complain to SLCC. Why? Because the client can have the claim investigated and presented to SLCC entirely free of cost or risk.

3. What is the position of the solicitor complained against? The solicitor will be required by law to pay his share of all the costs of the SLCC, and also a special charge for the complaint whether or not the complaint succeeds or fails.

4. What is the public interest in compensation claims? 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

5. Public Interest in Professional Discipline. 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.

6. Public Interest in Financing SLCC. 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.