Submission from Keith Tuck for the Legal Profession and Legal Aid (Scotland) Bill

I am writing to yourselves in order to register my views in respect of the above matter and understand that you require a response by today's date.

I would raise certain concerns in the following order:-

1. I understand that it is proposed that a solicitor will be required by law to pay his/her share of all the costs of the SLCC and also a special charge for the complaint whether or not the complaint succeeds or fails. This cannot be fair it suggests that all costs must be borne by one side whether or not the claim succeeds and accordingly will lead in my respectful opinion to vexatious complaints. If there is no risk of any financial loss to a complainant then there is every incentive for them to complain whether or not it is justified.

2. It has not been made clear whether the cases will be decided according to law.

3. There is no indication that the basic principals of fair procedure will be applied.

4. There is also no appeal on the facts or the law as it is applied.

5. I also understand that the persons who will decide the compensation claims are to be appointed by politicians.

In my respectful opinion these aforementioned matters are entirely consistent with the notion of fairness and justice. It is difficult to comprehend why solicitors should be denied such rights when they do so much to ensure that others are granted such rights.

It is accepted that the profession must as it maintain high standards of conduct. In my respectful opinion the bill that it presently stands confuses professional discipline with compensation claims. Other mechanisms exist for that. In my respectful opinion the imposition of fines should be left to the independent Scottish Solicitors Discipline Tribunal.

There must also be serious concerns regarding the potential costs of such a system. When those who finance the commission i.e solicitors have no say in its running or its accountability then this is a recipe for excessive costs without any opportunity of insuring compliance with the rules of natural justice.

In my respectful opinion these concerns must be addressed.