Submission from Moira Clark for the Legal Profession and Legal Aid (Scotland) Bill

I am writing to notify my concerns in relation to the following aspects of the Bill:

1. I believe that the Bill underestimates the likely work and cost of dealing with complaints via the Commission, as little regard is had to the amount of (effectively) unpaid time from senior and significantly experienced personnel (both legally qualified and lay) which is contributed to the system at present; I therefore suggest that a more realistic budget is required, and the bigger-picture social/public impact of funding issues (in particular compensation levels) on different sectors of the profession be more fully considered.

2. It is impracticable to effectively or rigorously test much of the “evidence” presented by Complainers to Committee via the complaints system, and the same will apply to the proposed Commission. At realistic levels of compensation a more broad brush approach can be tolerated. Clearly the Courts are available for redress via actions for negligence, or breach of contract, where significant losses are incurred by Complainers. I do not believe that an accessible and responsive complaints system can operate where the scale of the compensation is such as proposed by the Bill. Certainly it is iniquitous and unacceptable that there should be no appeal procedure available to members of the profession where required to pay compensation of this extent without normal checks and testing of the information on which decisions are based.

3. I see no reason why those with complaints against the legal profession should be effectively privileged in the manner proposed by the present Bill, in comparison to members of the public with equally valid complaints against other professions such as medical, accounting, or indeed against tradesmen whose bills would more than stand comparison with many bills for routine legal transactions.