Submission from Alison Fraser for the Legal Profession and Legal Aid (Scotland) Bill

I am a solicitor in private practice with two years' post qualifying experience. I have certain concerns in respect of the Legal Profession and Legal Aid (Scotland) Bill which relate to my area of practice which I would be grateful if you could consider. My concerns are as follows:-

1 - The lack of a right of appeal from decisions of the Scottish Legal Complaints Commission seems to me to have significant human rights issues associated with it and is contrary to the principles upon which most judicial remedies are founded.

2 - The Bill says that no complaint should be considered by the Commission unless the complainant has properly intimated the complaint to the firm concerned and the firm has been given a reasonable opportunity to investigate. My own view is that the Commission should not consider a complaint until the firm's internal complaints handling systems have been exhausted.

3 - The imposition of a specific complaints levy in effect every time a complaint is made is grossly unfair and something of a blackmailers charter and we feel that there should certainly be no levy when a complaint is not upheld. This is particularly so in areas of practice which have a particularly high rate of complaints such as the area of divorce and child work in which I practice where the majority of complaints is largely attributable to the stressful and emotional situation in which our clients find themselves.

4 - I am concerned about the lack of financial accountability by the Commission to those of us who are going to be funding it and concerned about a lack of control over the escalation of running costs. Would it be an option for some independent body should have the statutory remit to audit the Commission to ensure value for money and cost effectiveness?

5 - The proposal to have 4 lawyer members does not stipulate that they should be practising solicitors. I feel that it is important that when considering any complaints, the Commission should consider the context of any complaint and the current legal environment in which the complaint is made. Only by having practicing lawyer members will this be achieved

I appreciate you taking the time to consider my views.