Dear Sirs,

Legal Profession and Legal Aid (Scotland) Bill

I would like to make a submission in respect of certain aspects of the Legal Profession and Legal Aid (Scotland) Bill.

I wish to focus on some practical aspects of the Bill.

Compensation for inadequate professional service.

I have considered the circumstances in which inadequate professional service could justify an award of £20,000.

I would like the committee to look at the figures awarded by the courts in negligence cases resulting in death.

Howie v Upper Clyde Shipbuilders 1991 SLT 2

£10,000 for widow

McLean v William Denny & Bros Ltd 2004 SLT 1095

£28,000 for mesothelioma widow

Murray’s Executrix v Greenock Dockyard Co Ltd 2004 SLT 1104

£28,000 for mesothelioma widow and £10,000 for daughter
Loss of society claim for parents for death of eldest adult son. Each parent should be awarded £35,000 by Jury. On Appeal reduced to £20,000. Interest one half to the past.

Ryan v Fairfield 2004 GWD 32 – 661

Married in 1954 died 1999 Mesothelioma.

£28,000 for the widow.

I would also like the committee to look at the tariff of figures produced by the government for criminal injuries compensation scheme in respect of compensation for victims of crime.

These figures are contained in a booklet ‘Victims of Crimes of Violence’ which is issued by Criminal Injuries Compensation Authority, Tay House, 300 Bath Street, Glasgow G2 4LN and I will give a few figures:

1. Head – serious disfigurement £5,500
2. Skull Fracture – requiring operation £6,600
3. Peripheral sensory nerve damage (significant loss) £3,300
4. Rape by two or more attackers £13,500

In the light of the figures produced by the government how can a figure of £20,000 for inadequate professional service be justified.

The Complaints procedure itself

The Bill proposes that a solicitor should pay a fee per complaint regardless of the outcome of the complaint. It has been suggested the figure will roughly be about £300 per complaint.

I am a high street practitioner and a large proportion of my work is buying and selling houses. I charge a standard fee of £395 plus outlays.

If a complaint is made which is unjustified I will still have to pay £300 which would effectively be the profit on three conveyances.

The result of this change in the system dealing with inadequate professional service would be that the solicitor would have to increase his fees. In my case I would estimate by about 25%. I do not believe that that is in the public's best interest but that is the consequence of the terms of this bill.

Professional Negligence

It is proposed that matters of professional negligence will in certain circumstances be dealt with by the commission. The commission will have a majority of non-legally qualified persons on it.
Professional negligence is one of the most complicated aspects of law whether it be legal, medical or otherwise.

These matters are properly dealt with either by Sheriffs or Judges in the Court of Session. Having such matters adjudicated by a commission is completely unjustified and contrary to common sense and justice.

I am afraid that it is inevitable that there will be miscarriages of justice if complex legal matters are dealt outwith the judicial process.

Yours sincerely

James M. Lamb