Submission from Lesley McDade for the Legal Profession and Legal Aid (Scotland) Bill

I witnessed the discussion on Newsnight last week wherein it was advised by a person making representations that they should "kill the bill", referring to the Commission and Legal Aid Reform Bill.

I have taken a look at it and agree it is not the best drafted bill.

I have looked at it as an issue of Jurisprudence and link it into my suggestions currently before the Scottish Executive concerning the Directive on Mediation and the outstanding Consultation Paper on the Subsidiary Principle which the Scottish Executive are attempting to ignore.

I am also aware that there is a proposal for a Human Rights Commission and consider a department within this umbrella would be sufficiently independent for purposes.

I have specifically required the Bill to "actually" process complaints rather than there being outsourced to lawyers, such that a department would need to be constructed to do the processing. This would add to the issue of independence.

I have also been subject to corruption in the English & Welsh courts to the extent that every complaints bureau failed - which is a serious state of affairs.

I am also looking at a scenario of a big picture on the scale of an "Enron" in America and how it could be prevented.

I think I have therefore sufficiently widened the scope of this Bill and have included some reference to the police and mediation - as it is a new concept in Scotland - which I would prefer was processed as a new professional body in opposition to the Law Society and rule of law.

I have included ways to protect people who complain as well as to protect a practitioner against malicious complaints and consider I have been reasonable and fair providing a balanced perspective.

What I was concerned about was the lack of reference to actually "striking people off" as professionals.

This should be an objective of an independent Commission - to weed out the nasties.

I have also provided reference to a professional standard and ethics and as lawyers cannot avoid or evade the issue of "knowledge" and access to it, I have looked to tort law concerning inadvertence, careless, reckless and deliberate conduct which should have a degree of intellect associated with it.

I have also addressed "publicity" including the need where the Commission itself is corrupt - this is an issue I faced concerning my complaints and there was actually a news blackout on my caseworker concerning allegations of bullying. So the reprehensible does actually happen and there is such a thing as a legal mafia.

I anticipate you will see the scope of my reforms to the Bill as positive.

Kindly acknowledge receipt of the amended Commission and Legal Aid Reform Bill and confirm my thoughts will be taken into consideration at Justice Committee level concerning this Bill.