Submission from Andrew Haddon & Crowe WS for the Legal Profession and Legal Aid (Scotland) Bill

We write in relation to the Legal Profession and Legal Aid (Scotland) Bill to express our concerns in relation to certain aspects of the Bill.

As can be seen from our letterhead, this is a small two-partner practice providing a service to the citizens of Hawick and its environs. We are general practitioners dealing with conveyancing, executries and both civil and criminal court work.

We have to say that we are most concerned about the proposed Scottish Legal Complaints Commission and its related powers. Our information is that the Commission will primarily be staffed by non-lawyers whose capacity to appreciate the complexities of legal practice will be negligible. We already have to operate in a similar environment in our dealings with the Scottish Legal Aid Board when matters of any complexity have to be referred to the Board’s solicitors. The distinction between the Legal Aid Board and the Complaints Commission is that all complaints will require a knowledge and understanding of both the law and the way in which legal practices operate.

The proposal that individual solicitors can be required to pay compensation of up to £20,000 to a client for inadequate professional service is totally disproportionate. It is accepted that in appropriate circumstances, clients should be compensated if the level of service which they are entitled to expect is not delivered. Given the level of profitability of most mixed practices of this size it’s highly unlikely that many of them would be able to endure two substantial complaints within any one financial year.

We think it wrong that only the legal profession should be targeted in the manner laid out in the Bill. Inadequate professional service is rife in both central and local government and the amount being offered by these bodies for loss suffered or inconvenience or distress is minimal compared to the level of compensation which solicitors will be required to pay. It is unfortunate that the Parliament has indulged in tunnel vision and not looked at all the areas where the electorate has the right to expect an appropriate payment for inadequate service.