Submission by Tom Herd for the Legal Profession and Legal Aid (Scotland) Bill

I have read and considered the Law Society’s response to the above on behalf of the Profession and personally wish to endorse the Society’s approach and to reiterate the points made by the Society.

Reference is made to the Law Society’s Memorandum of April, 2006.

In particular, I object to the following:-

1. There is to be no appeal to the Court. Courts can only become involved through an action of judicial review.

2. A specific levy will made on Practitioners who have a chargeable complaint irrespective of whether that complaint is justified or not, or whether the Solicitor is exonerated or not.

3. The Scottish Ministers will have over-riding power to give directions as to the exercise of functions by the Commission. This makes the Commission less than independent.

4. The scheme has not been properly costed. There has been no cost-benefit analysis and given that the legal profession is 99% complaint free, this is an over-reaction to a problem which is not a significant one in the Scottish context.

5. The Commission will not be considered independent if appointments are made to its board by Scottish Ministers.

6. The whole system is unlikely to comply with the European Convention of Human Rights and the Scottish Parliament can only legislate within that context.

7. These proposals will have an adverse affect on small firms and in particular, those in rural areas with tight margins.

8. There are access to justice issues which will be affected. Solicitors may determine not to carry out certain types of work which have traditionally given rise to complaints and the public will be less well served.