I am writing to make the following comments in relation to the Committee’s consideration of the above Bill.

1. I have a concern over the cost of operation of the Legal Services Complaints Commission. I note that it is to be funded by the Legal Profession by way of levies. My concern is that over the years any body such as this tends to build up its own momentum and seeks to increase its powers and workload. If it is not funded by the government then there will be little political will to control its expenditure. There will be constant pressure from the Commission to increase its budget to which there will be little resistance from the government and over the years there will be an inexorable rise in the funding paid for by the Profession.

2. I have a concern over the levy to be paid by firms who are the subject of a complaint. If the complaint is found to be groundless is it fair that the firm should have to pay this? A tendency will develop for firms to pay clients with an unjustified complaint a sum of money equal to the levy as it will be easier to pay that sum than to go through the complaint process and have the complaint dismissed. Over time it will become known that in order to get a discount from a solicitor all that is required is to put in any sort of complaint to the Commission and the solicitor will automatically offer you say £300.00. In a relatively straightforward matter involving a fee of £600.00 clients will soon appreciate that you can in effect get a 50% reduction in your fee simply by making any sort of prima facie complaint to the Commission.

3. I am concerned that the Commission will be able to make awards for payment of £20,000.00 to solicitors without any proper appeal process. An internal appeal or review by other members of the Commission is not a satisfactory method of appeal where sums as large as £20,000.00 are involved. Under the present system where the upper limit of an award for inadequate professional service is £5,000.00 there could be an argument that a judicial appeal procedure is unnecessary and expensive. However if the award limit is to be increased to £20,000.00 then clearly an amount of that type could have a very significant effect on particularly a small practice or sole practitioner. There must be a proper appeal on fact and law from the Commission which is an arm of the state administration to an independent judicial body. Ideally this should be the Court of Session but taking in to account questions of expense then there is an argument for a right of appeal on questions of fact and law to the Sheriff and on points of law only thereafter to the Court of Session.