20 April, 2006

The Secretary
The Justice 2 Committee
The Scottish Parliament
EDINBURGH
EH99 1SP

Dear Sir,

The Legal Profession and Legal Aid (Scotland) Bill

The Society is concerned about this bill. Already there are areas of law and areas of the country where individual citizens cannot obtain proper legal representation. The inevitable result of the bill becoming law in its present form is that the supply of legal advice will sharply diminish and that is very much against the public interest.

The Society has a large proportion of members who act largely for individuals, often in difficult circumstances. It fully recognises that if an error made causes loss, compensation should be paid. What cannot be acceptable is for the proposed new commission to have power to impose a penalty of up to £20,000 without proof of fault or loss. It is particularly concerning that there would be no appeal available against any such decision. The Society is troubled at the idea that the funding of the commission should depend on payments based on the number of complaints made against a firm, even if those complaints were wholly unjustified and were rejected.

Passing this bill in its present form is likely to lead to a reduction in the number of firms doing work under the Legal Aid Schemes.

There is also a lack of detail about just how the proposed new commission would operate and be funded. It is vital that such detail be provided now, so that the commission can command support and confidence from both lawyers and the public. The apparent reason for the new commission is to give a perception of independence from the legal profession. Without full transparency, the public perception of the new commission would be fatally flawed from the outset.

I trust that the Committee will have regard to the Society's comments

Yours sincerely,

James Steel
President

The Society:
President: James Steel Senior Vice-President and Treasurer: Richard C. Shirreffs Junior Vice-President: John Stott
Executive Secretary & Librarian: Karen R Tremain