Submission from John Hodge for the Legal Profession and Legal Aid (Scotland) Bill

I write to express my concern 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.

I work in a firm of solicitors. My own field is commercial property. We do not get many complaints because commercial clients will either take their business elsewhere or sue us if something goes wrong rather than complaining. Those areas of the office where we act largely for individuals, often in difficult circumstances is different. We fully recognise 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. Right-minded individuals would be troubled at the idea that the funding of the commission should be dependent on payments based on the number of complaints made against a firm, even if those complaints were wholly unjustified and were rejected.

Like many other firms, we will have to consider carefully whether we can continue to do work, often at Legal Aid rates, for clients who already feel aggrieved about something and may well complain about our services if the outcome is not to their liking. That would lead to a further reduction in the availability of legal advice in certain important areas of the law. I have always been anxious to try and provide a service for those with a grievance in case there was a wrong which was not being addressed. It is obviously much less appealing to do so where one is likely not only not to be fully remunerated but also to be penalised.

I think that a lot more thought needs to go into how the complaints body will work and would urge the committee to carefully consider the representations. I would be concerned that an area of practice was effectively penalised because it was more prone to complaints even if they are unjustified. As indicated it is not my own area of practice but I do consider the proposal is not properly researched.