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Lorna Jack – Chief Executive  
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**Tuesday 29 March 2016**

Dear Lorna,

### **Responding to your consultation submission**

Thank you for your two letters in response to our consultation on strategy, budget and operating plan – dated 10 March and 15 March 2016. We are tremendously grateful for your frank, focussed, and thoughtful feedback.

We believe four key themes dominated the overall responses receive from stakeholders, and these all linked to points you specifically raised.

**Firstly, with hindsight, we did not focus enough on communicating our aims for the complaints process itself and our performance there.** We referenced our recent Annual Report in the consultation document - this had significant detail on our work in that area, but you strongly reminded us that if this focus was not duplicated in the strategy it could look as if our work was skewed – I think we can rectify that immediately, as there is a firm commitment to improvement we laid out on the first page which we can easily add detail and context to. That commitment extends to trying to achieve legislative change to make the process more efficient. We are grateful for your comments here.

We know ‘lobbying’ for regulatory was not seen as our role by some, but when we see the costs and inefficiencies of the current statutory model we do feel it is right to at least flag this and make the case for change. We value your own comments on this in your recent paper on legislative change.

Around our core process we do believe in the value of benchmarking against other organisations, but believe some of the comparisons you make are potentially misleading to those who may view the responses once published. The SPSO is a very different organisation, and does not make legally binding determinations in the same way. You quote your own level of complaints investigators, but omit extensive other costs and resource in your organisation (and spend on fiscals, and SSDT costs) that would be required for a like for like comparison with our process and determination. You referred to your own efficiencies, however, this does come against a backdrop of your core regulatory costs paid by all solicitors and those retained on the role (the retention fee) being increased a few years in row, and significantly greater than any increase we have made. We hope there is a wide and open debate on regulatory cost and models (how they link to the core functions

laid out in detail in the 1980 and 2007 Acts, and other mandatory fee elements) as part of legislative change work. We agree transparency for the consumer and lawyers is important, and this will be a positive opportunity for independent scrutiny.

**A second strand of comments was how much project work we undertake.** Our operating plan had a similar number of projects and similar funding and staffing to the last two years, but in the context of the strategy it perhaps looked more substantive. We now have a great chance to add clarity in two ways – better describing the small scale of many projects and their value for solicitors and clients, and giving more overtly the link to the relevant statutory powers (something we removed in the final draft for the sake of plain English).

We made clear in our budget consultation document (page four) that increased costs largely related to extra temporary resource we were using for exactly what stakeholders flagged as our focus, handling individual complaints (with other increases coming from unavoidable property, pension, IT and training costs), so this adjustment did not substantively affect our budget. We apologise if this was not clear.

**There are also some specific projects which received feedback and we are now going to reduce in scale, or remove entirely, from the 16/17 plan based on the helpful feedback.** It may be we abandon these altogether, or if not that at least means they can be better discussed and evolved with stakeholders for a future plan (such as work and costs around ABS, where we made changes to the plan to reflect your feedback). I'm still pleased we consulted on these, as in some of the areas we are asked why we're not undertaking work in this area we can show we have considered it but there was consensus this was not a priority. We hope that reducing the total number of projects also shows we are listening and that we agree that our complaints function remains our core focus.

Our Board were, however, frankly surprised that there was a suggestion our job was only to handle complaints, and not to contribute to debate on what standards should be. We have a bank of over 8,000 complaints, which lawyers, and consumers in their fees, have paid for and it says much about current approaches to regulation that this is not seen as a valuable resource to be mined for information to help future consumers. So some projects, like this work, stay firmly on the agenda. Likewise, while your focus on our 'core role' as complaints, other important statutory duties were assigned to us, such as oversight of the Master Policy and Guarantee fund. It was noticeable that the Society did not significantly comment on these areas, and we believe we must dispense all our statutory duties effectively, not just complaints.

**Finally, there was much discussion about some of the consumer focus and language, and whether projects went beyond our role.** Few of the responses made reference to the legislative changes that came into force last year to establish a statutory SLCC Consumer panel, nor how they would interpret the role set out for that panel in statute. Overall, there was a disappointing lack of comment on consumer issues more generally. The Consumer Panel's creation has increased some of the consumer input and focus of our work – while our decisions on cases must be independent and impartial, those with less knowledge of the sector and legal process may need additional support to engage in the process. We believe we may need some research to understand what that is. We also see issues around consumer redress, clarity around fees and learning from complaints (seeing the same issues happen time and again to clients and solicitors and costing them both in terms of our process does not seem wise where there may be a simple fix). Making progress on these will save the sector and consumers money in the future. Even though not all the stakeholder responses in this area were positive, these are likely to remain strong themes of our work.

As your letter, and this response, go into the public domain under our consultation process I am sure you will understand it is important we responded on some of the specific issues you chose to raise. There are other points in your letter we would also strongly rebut, but hope we can address through our ongoing dialogue and we did not wish a negative tone to our response when we know you have aimed to be constructive and informative.

**At the heart of many of the issues you helpfully raise is whether we get the balance of various issues correct. We are very pleased to confirm that the feedback has made the SLCC reflect again, and we are now working on what we hope will be a significantly improved further draft which we would then like to discuss with you, giving you another chance to input before finalisation.**

While we may continue to disagree on some detail I hope the next version which show a real change, reflecting many of your concerns, and that we can work together positively to finalise our plans.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'N. Stevenson', is positioned below the closing. The signature is fluid and cursive.

**Neil Stevenson  
Chief Executive**

**Cc:**  
Philip Yelland