

# A new operating model...

- Reducing cost for the sector for the second year running
- Responding to the impact of Covid-19
- A new model for staffing, IT and property
- Delivering and implementing reform
- An agile culture of change and innovation

Our budget and operating plan for July 2022 - June 2023

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# 1 Executive Summary

- 1.1 This document sets out the SLCC’s budget for the operational year 2022-2023, within the context of a strategy and operating plan which are published separately but summarised in this document.
- 1.2 **A consultation ran from 31 January to 17 March 2022.** Responses were published on our website on 28 March 2022. The consultation dates and process are set in statute.

## KEY PROPOSALS AND CHANGES FROM PREVIOUS YEARS

- 1.3 For the second year running we have set a reduction in the general levy for all lawyers.
- 1.4 **A reduction of 5% on the general levy for all lawyers is set.**

Our Budget at a Glance		
Our General Levy will be <b>£444</b>  2021-2022: £467 <i>A reduction of £23</i>	Our expected costs will be <b>£3,870m</b>  2021-2022: £3,834m <i>An increase of £36k</i>	Our expected income will be <b>£3,737m</b>  2021-2022: £3,841m <i>A reduction of £104k</i>
Our General Levy is being reduced by <b>5%</b>	Our Complaint Levy will remain at <b>£5,000</b>	Our Approved Regulator Levy will increase to <b>£10,000</b>

- 1.5 This is achievable through efficiency work, which was recently recognised at the Scottish Public Service Awards, and through incoming numbers remaining slightly lower than the peak year of 2018-2019.
- 1.6 It should be noted that our planned costs are actually up 0.9%. However, two years of lower complaints mean reserves can continue to support both the reduction of the levy made last year, and a further reduction this year.

## CONTEXT TO OUR PLANNING

- 1.7 **Last year we noted in detail the impact of Covid-19** on the sector and clients, how we had performed during lockdown (including keeping all services operating), and the early work we had started to learn from the experience, and use that to plan long-term changes and improvements. We noted changes to our strategy based on that learning experience. We have not repeated this explanation, but if necessary details can be found on our website at: <https://www.scottishlegalcomplaints.org.uk/about-us/how-we-are-funded/previous-budgets/previous-budget-consultations/budget-2021-22/>.
- 1.8 **This year we have managed to operate almost normally, with a primarily remote workforce, and have started implementing work to change our long-term operating model.** This focuses on three areas: our people (hours and locations of work), our IT (a fully cloud based network by September 2023), and our property needs (as we approach a lease break clause in September 2023).

## KEY INFORMATION

- 1.9 **Our core operational work next year** will include helping almost 2400 people resolve almost 1,200 complaints. We also anticipate dealing with 38 Data Subject Access Requests, 26 Freedom of Information requests, 15 handling complaints, and 10 Inner House of the Court of Session actions, when a party challenges one of our decisions and we have to respond. It will include a number of 's17' actions in the Inner House of the Court of Session to recover files we need to investigate complaints. It will also include complying with our statutory duties to monitor trends and oversee the indemnity arrangements in the profession, as well as communication, education and outreach work. We explain the assumptions behind these forecasts in **Section 4**.
- 1.10 **In Section 2 we note significant savings in our 2020-2021 budget year** achieved by our rapid response to the Covid-19 situation, which allowed us to reduce the levy for all lawyers for the 2021-2022 budget year.
- 1.11 **In Section 5 we note projected efficiency savings of over £84,000 for the coming year.** This includes a second year of reducing headcount. The reduction in resources needed also reflects the anticipation of a slightly lower number of incoming cases in 2022-2023 compared to the peak year of 2018-2019.
- 1.12 **However, in Section 6 we note those factors driving cost** – including significant factors outwith our direct control, for example, the public sector pay settlement.
- 1.13 We specifically sought input from the profession and professional bodies on tackling a particular key driver of unnecessary costs – the failure of solicitors to respond to statutory requests for files, leading to staffing and administration costs, and legal and court costs. More details can be found in **Section 6**.
- 1.14 **Overall, we have agreed a reduction in our income from the levy for 2022-2023.** We will use previous efficiency savings to fund the budget shortfall, drawing on reserves (which any unspent budget is returned to at the end of each year).
- 1.15 **Appendix 1** contains the full budget.
- 1.16 The abbreviations and technical terms we use are explained in a glossary at **Appendix 2**.

## 2 Our financial outturn in 2020-2021

- 2.1 Our rapid response to the Covid-19 situation allowed significant savings in our 2020-2021 budget.
- 2.2 We have always achieved income and expenditure close to the levels predicted in advance as part of the budgeting process. The formal target, in usual circumstances, is that actual expenditure is +/- 5% of planned expenditure. This year far greater savings were possible as incoming numbers of complaints reduced and the executive, working with the Board, rapidly responded to cut costs.
- 2.3 **The main drivers of the surplus in this financial year against the 2020-2021 budget are:**
- |   |          |
|---|----------|
| Income received greater than budget:    | £108,806 |
| Expenditure at lower level than budget: | £424,288 |
| <hr/>                                   |          |
| Variance from budget:                   | £533,094 |
- 2.4 **The main drivers of increased income against budget were:**
- Additional Complaints Levy Income (£78,800) generated by a policy change to focus more on a ‘polluter pays’ approach for upheld complaints, and recovery of historic unpaid debt from the profession. This offsets an in-year bad debt provision (-£22,750).
  - Secondment Income (£57,787) generated by immediate steps to reduce staff resourcing as lower incoming rates became visible.
  - This offset a reduction in bank interest (-£25,959) due to lower interest rates and a collaborative agreement with the Law Society of Scotland to defer payment of 50% of the general levy from solicitors meaning lower bank holding for a significant period of the year.
- 2.5 **The main driver of decreased expenditure was:**
- Staff and Member Salaries (£416,102) created by both our ongoing efficiency work and our immediate work to reduce headcount and staff costs as complaints numbers slowed.
- 2.6 This funding is collected from the profession, and can only be used for the purposes the SLCC was established to deliver.
- 2.7 **When our budget was set by our Board in March 2020, just as the first lockdown was announced, it was not possible to predict whether complaints would go up or down**, and we are required to ensure sufficient budget for the work in hand. We were very conscious of the impact of the situation on the profession, but also have duties to the public, whose need may have increased during this period. We considered various scenarios and consulted with the profession on expected trends. At that stage, there were no clear indications that complaints levels were more likely to fall than rise (and we have seen many other sectors where they have risen). On that basis, we set a flat budget.
- 2.8 **In reality, we saw strong business delivery and performance. Our output was not affected by lockdown and all backlogs had been cleared in the previous year.** This was set against dips in complaint levels during lockdown periods, and we took swift action to ensure these reductions led to cost savings, rather than a drop in productivity. We did not see the rise in complaints that might have been expected, and that is a testament to the work of the legal profession in very challenging circumstances. Those factors combined have allowed us to reduce our expenditure in year.
- 2.9 **Overall, and based on the data available at the time, we believe that we took reasonable decisions.** The statutory model set for SLCC finances, which ensures this money is used for future benefit against our intended purposes, has worked to deal with the uncertainty in budgeting, even in this extreme situation.
- 2.10 **Our anticipation of this surplus at our six-month budget review gave us confidence to reduce the levy for all lawyers for the 2021-2022 budget year, paid in July 2021.**

### 3 Summary of our strategy for 2020-2024

- 3.1 Our vision is that ‘every client receives a professional service, and every lawyer adheres to professional standards’.
- 3.2 Our mission is to **resolve complaints, prevent the common causes of complaints, and enable quality improvement.**
- 3.3 **We have five strategic aims** to achieve our ambition to be an efficient and effective complaints and improvement body, delivering a quality service. These are to:

<b>Deliver</b>	Deliver a high-quality service which is approachable, people-centric, prompt, and proportionate, and which delivers fair resolutions.
<b>Innovate</b>	Innovate by working as a performance-focused, change-confident and resilient team, delivering our work in new and efficient ways.
<b>Prevent</b>	Prevent the common causes of complaints through analysis, shared learning and improvement work.
<b>Influence</b>	Influence the debate on reform, and lead the change as soon as final proposals are in place.
<b>Adapt</b>	<b>UPDATED IN APRIL 2022:</b> Adapt by building on learning from Covid-19 and beyond to ensure an agile and resilient operating model, focussed on function over form.

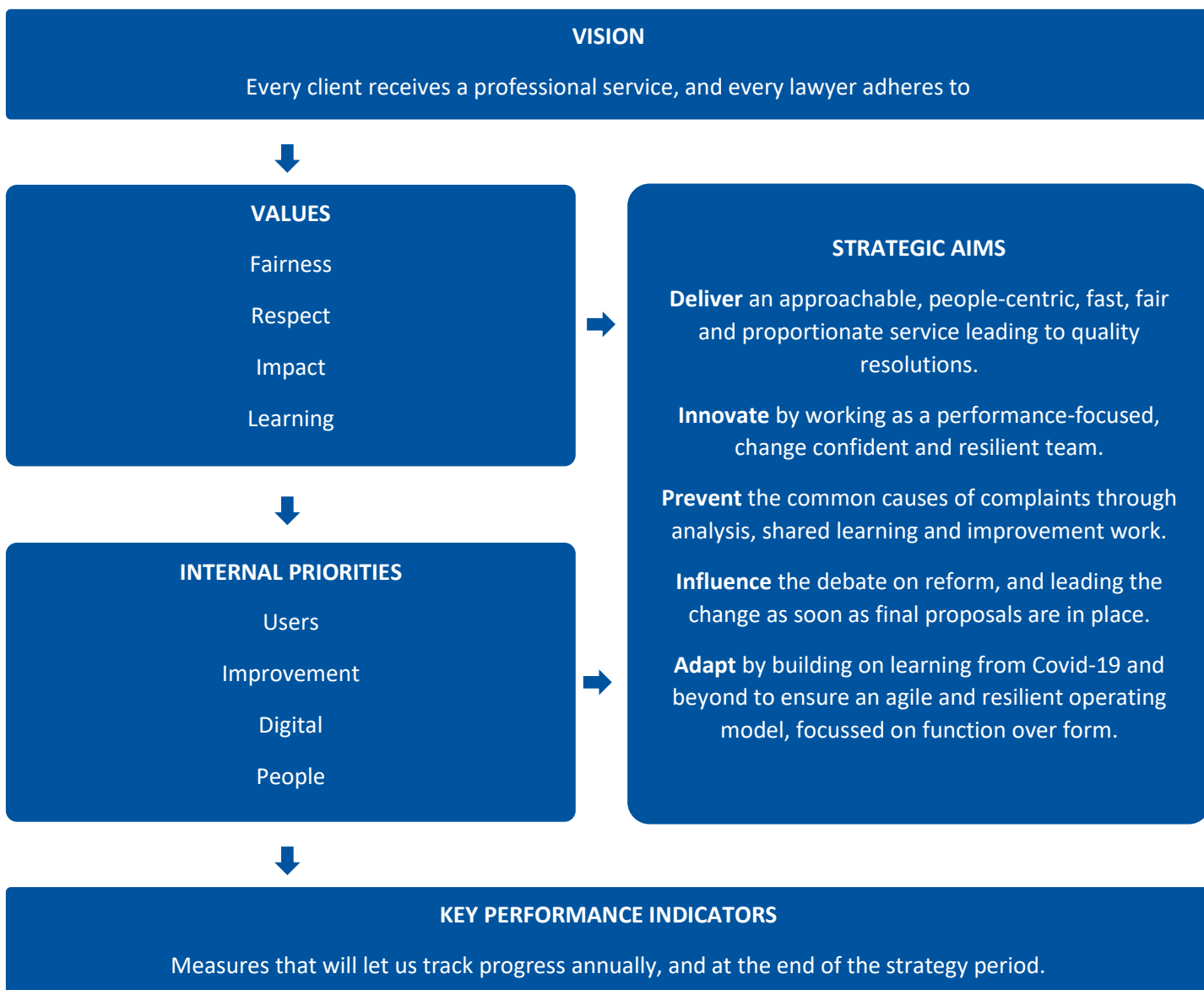
- 3.4 **We have four internal priorities which will influence all our work and will ensure delivery of our aims:**

<b>Users</b>	Good customer experience is at the heart of how we design and deliver services, and feedback drives our improvement work.
<b>Improvement</b>	Our people, processes, and outcomes demonstrate a commitment to, and delivery of, continuous quality improvement and best value.
<b>Digital</b>	Our thinking will focus on digital solutions, paperless processes and ‘social’ engagement, whilst ensuring access for all.
<b>People</b>	Our approach to wellbeing, development and a high performance culture ensures we can meet the challenges of ongoing change and increased demand, in a stimulating and enjoyable environment.

3.5 Our values are:

<b>Fairness</b>	Our processes and outcomes can be trusted by all as fair, independent and impartial.
<b>Respect</b>	We understand and respect the diverse groups we work with, work inclusively, and offer a good customer experience to all.
<b>Impact</b>	Every element of our work will deliver a meaningful result.
<b>Learning</b>	We continuously learn and develop, and share that learning, so we all improve our processes and the quality of our work.
<b>Clarity</b>	Our decisions, explanations, communication, and services will be clear and accessible.

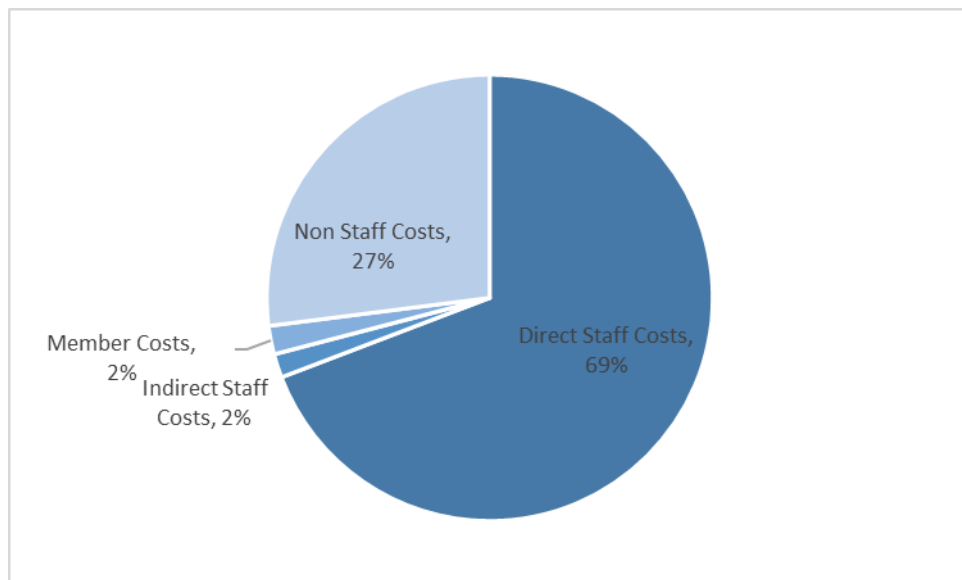
3.6 How these elements work together:



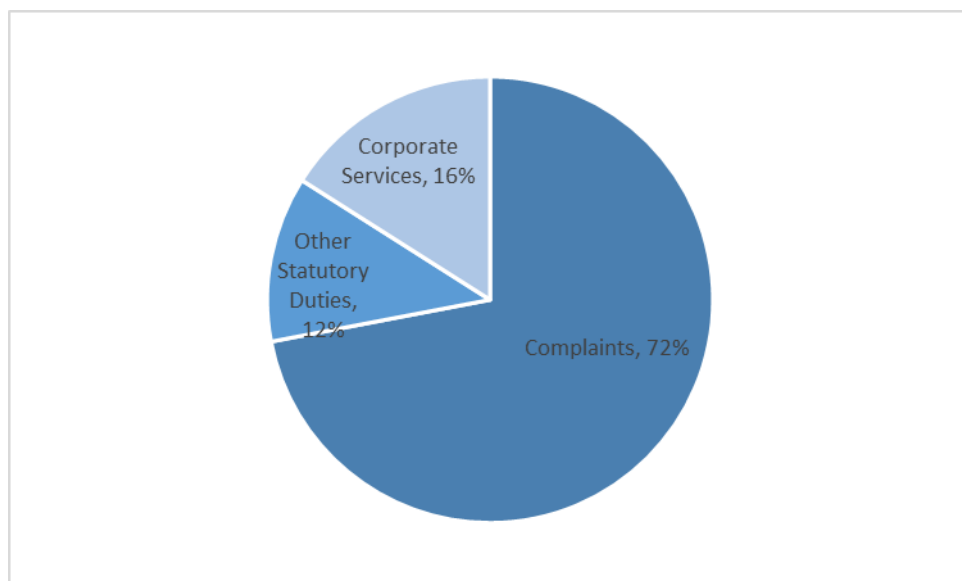
## 4 Our operational delivery for 2022-2023

### Introduction

4.1 The majority of our costs relate to our people:



4.2 The majority of our people costs are spent on staff dealing directly with complaints:



### Complaints about lawyers – anticipated volumes

4.3 Our frontline complaints service is where the majority of our staffing and resources is directed.

4.4 How we deal with legal complaints is shaped by several factors. This includes the incoming number of complaints and their complexity, how these complaints are categorised, and whether they pass the first stages of our process. It then depends on whether an agreed resolution is achieved or a formal determination is required, and whether any such determination is appealed. We have to respond to a demand-driven caseload and have a statutory obligation to have adequate resources to process that workload.



- 4.5 Information about our complaints processes is available on our website at <https://www.scottishlegalcomplaints.org.uk/your-complaint/>
- 4.6 In 2018-2019 we received 1,326; the highest incoming numbers we had ever received.
- 4.7 In 2019-2020 the first half of the year saw slightly lower incoming. However, in our quarters 3 and 4 the impact of the first lockdown saw a rapid and significant reduction. By the end of the year (30 June 2020) we had received 1036 complaints; a 22% drop.
- 4.8 In 2020-2021 work started to rebound, however, a second lockdown impacted numbers in January and February 2021. The year-end incoming was 1,054; a 2% increase on the previous year, but still down 20% down on our peak.
- 4.9 In 2021- 2022 we received 572 complaints in the first six months of the year, this is up 8% on the same six months in the previous year. Based on this we are making a forecast that the year-end figure for this year will be 8% up (see table below).
- 4.10 For the year this budget relates to (2022-2023) we are estimating a further 5% increase in incoming. We believe the 8% increase within the current year continues to be a rebound from lows stemming from the 'lockdown' period. As things continue to return closer to normal we expect that to continue, but perhaps at a lower rate, hence the 5% estimate. Longer term data suggests that 2018 – 2019 may have been an unusual peak, so we are continuing to project lower incoming compared to that year, and more in line with longer term historic trend data.
- 4.11 Other forecasts for 2021-2022, and 2022-2023 are based on incoming, but also on trends we are seeing in how cases resolve or progress at different stages within our process.
- 4.12 Our anticipated caseloads are:

Complaints about lawyers	2019-2020	2020-2021	2021-2022	2022-2023
	Actual	Actual	Forecast	Forecast
<b>Complaints incoming and requiring a formal prematurity and / or eligibility determination.</b>	<b>1,036</b>	<b>1,054</b>	<b>1,138</b>	<b>1,195</b>
Of those eligibility decisions, 'Frivolous, Vexatious or Totally Without Merit (FVTWM)' and 'Time bar' are reserved to Commissioners:	224	180	200	210
Full service <b>mediations</b> will be required on the following:	45	90	70	75
Full service <b>investigations</b> will be required on the following:	445	355	400	420
Case not resolved at eligibility, mediation or investigation and requiring a panel of three commissioners to make the final determination	198	131	140	150

- 4.13 Forecasting the future cannot always be accurate. While we use a variety of recognised techniques, and have independent support on our 'predictive model', the outputs are never more than an estimate.
- 4.14 Detailed information on our past performance and complaint volumes can also be found on our website at <https://www.scottishlegalcomplaints.org.uk/about-us/who-we-are/our-annual-report>.

## Complaints about lawyers - KPIs

4.15 Before the start of the business year 2022-2023 the Board of the SLCC will set specific targets, based on advice from the management team, and taking into account:

- the latest performance data available
- the anticipated incoming complaints for the year ahead
- the improvement in performance the organisation wishes to see.

4.16 KPIs are set, and then monitored by the management team, with assurance being presented every two months in Board meetings, on areas such as:

- 'Work in Progress' within the business
- The time taken from receipt of a complaint, to allocation to a dedicated staff member to start the first stage of the process
- Whether production targets by staff and teams are achieved (productivity)
- Journey time for the complaint to be completed
- The early resolution rate (how many complaints can be settled without formal determination)
- Cost per case.

## Other case related activity

4.17 We are also responsible for investigating 'handling complaints' which look at how the Relevant Professional Organisations (RPOs) deal with complaints about 'conduct'. This can vary any year, but last year we saw a 50% increase in the number of handling complaints we received. At the six month point in this operating year we have around half the complaints we had in the last complete year, so we predict a similar number at year end this year. With only emerging patterns and drivers we carry that forecast forward to next year (2022-2023) as well.

4.18 We also have a significant caseload assisting people with Data Subject Access Requests (DSAR) and Freedom of Information (FOI) requests. These requests have tended to be in proportion to the number of complaints we receive, although we've seen a drop in DSARs recently (with a previous peak potentially linked to publicity around the new GDPR). The tight statutory turnaround times, and potential for significant fines, means this work must always be fully resourced.

4.19 After appeals increasing in recent years, in line with increasing underlying complaints volumes, we are currently seeing a drop both in real terms, and relative to complaint numbers. We have therefore revised forecasts down. In time, and if sustained, this may lead to cost reduction in this area (costs come at the end of the appeals process, often many months after we made a decision on the case).

Others case types	2019-2020 Actual	2020-2021 Actual	2021-2022 Forecast	2022-2023 Forecast
Handling complaints	8	15	15	15
Freedom of Information Requests	33	24	25	26
Data Subject Access Requests	50	36	35	38
Appeals	12	9	9	10

## Other case related activity - KPIs

- 4.20 Handling complaints – respond in 14-21 days for eligibility, 4-8 months for investigation dependent on complexity.
- 4.21 Freedom of Information Requests – statutory duty to respond to all cases within 20 working days.
- 4.22 Data Subject Access Request – statutory duty to respond to cases within 1 month (with an extension available on complex cases of 3 months).
- 4.23 Appeals – less than 2.5% of cases appealed.

## Our operating plan – including our other statutory duties

- 4.24 We have a range of other statutory functions which must also be included among our annual priorities. These include:
  - giving advice on complaints
  - issuing guidance on best practice
  - monitoring trends
  - monitoring the effectiveness of the Client Protection Fund (Guarantee Fund) and Master Policy (these are insurance arrangements which help protect clients)
  - supporting our statutory Consumer Panel.
- 4.25 The remainder of our planned operating activity:
  - supports these additional statutory duties or
  - supports or enhances our complaints functions.

## A time of change and improvement, and the need to focus on long term benefit

- 4.26 This year we continue with all of our four-year strategic themes set out in 2020.
- 4.27 However, in 2022-2023 there are seven areas we need to prioritise. These all affect significant areas of work, have higher financial and performance risks, and have complex interdependencies with each other. The seven areas are:
  - 4.28 Three aimed at delivering long term change and a more efficient and sustainable operating model following Covid-19:
    1. **A new operating model for our staff** (hours and locations of work);
    2. **A new fully cloud based IT platform**, which is not dependent on any physical office location, and with increased Cybersecurity; and
    3. **The finalisation of a review of property need**, and possible preparation for a move 3 months after the end of the business year (September 2023 break clause).

**Note:** these three projects are aligned to the original strategy, but are more ambitious and being accelerated based on learning from Covid-19 and the Working Party review.

- 4.29 Three aimed at embedding new functions and powers, and delivering regulatory reform to create a fairer, more efficient and more effective regulatory and complaints model:

4. **Implementation of the new complaints handling regime for ‘Licensed Providers’ and ‘Approved Regulators’** under the Legal Services (Scotland) Act 2010;
  5. **Responding to ongoing work by the Scottish Government to reform legal regulation and complaints handling;** and
  6. **Implementation of changes to the complaints process coming from a new Statutory Instrument** (if passed) and from changes to the SLCC’s own.
- 4.30 A final key responsibility in this period, relating to ensuring the delivery of all ‘business as usual’ in the unprecedented change environment created by the above projects:
7. **Coordinating and integrating work to makes sure that our statutory functions continue to be delivered without disruption or errors, and that all these projects support each other** (for example, that new IT can support new statutory functions, or changes to rules about complaints under the LP&LA(S) Act 2007 are consistent with rules for complaints under the LS(S) Act 2010).
- 4.31 These are priorities because they are fundamental changes which will help us be more efficient and effective in the future, and help us to manage our costs.
- 4.32 The prioritisation of the above areas may have a number of impacts:
- in other areas we may be only ‘nudging’ work forward in the coming year rather than taking a big step forward
  - in some areas we may do no work (this will be clearly marked on our Operating Plan), but the theme remains on the plan as we will return to it in the final year of our strategy (2023-24)
  - if pressures from the priority areas are significant, we may have to delay other areas within the business year – this decision would be in consultation with our Board, and reported on publicly in our annual accounts and report.
- 4.33 A final impact is in terms of strategic theme on ‘People’. When setting the strategy in 2020 we had an ambitious set of goals in this area. All of these remain relevant, but all have been altered by Covid-19. For example, we had committed to consulting on and piloting more flexible ways of working; this was overtaken by lockdown and all our learning on what is possible. We wanted to look at how and where we recruited; however, lockdown and lower numbers of cases meant we have been reducing staffing number not recruiting to our core functions. A final example would be job descriptions. We were due to work with staff to review these, but now want to do that a little later to take account of our learning from lockdown and hybrid working.
- 4.34 On this basis the ‘people’ section has been re-ordered to show that the finalisation of the post-Covid-19 working model (added last year) now takes precedence, and the other projects will flow from that.

#### **Detailed operating plan**

- 4.35 Our detailed operating plan is published separately. However, this section summarises the main work to provide context to the budget.

## Users

4.36 Actions set out in our detailed operating plan include ones to:

- Take a 'service design' approach which places customers at the heart of how we plan and deliver services
- Improve the accessibility of language and layout in correspondence for a diverse range of audiences
- Improve our general levels of customer service
- Improve the feedback system for complainers and practitioners
- Engage with the profession on preventing the common causes of complaints and good complaint handling
- Work with consumer bodies.

## Improvement

4.37 Actions set out in our detailed operating plan include ones to:

- Carry out further work to improve our core processing of complaints
- Publish content to explain what early resolution is, and the benefits to all parties
- Continue to use our powers to tackle a very low response rate from the profession when we raise a complaint with them (which adds to costs and delay)
- Continue to implement our plan for use of our oversight powers
- Continue to deliver an outreach and CPD programme
- Continue to promote reform of the complaints process and legal regulation based on our *#ReimagineRegulation* proposals
- Meet our legal bio-diversity duties, and support Climate Change Week
- Continue work to implement the Legal Services (Scotland) Act 2010.

## Digital

4.38 Actions set out in our detailed operating plan include ones to:

- Move to a fully cloud based IT system, which has no office dependency, and can be securely deployed at home working locations and any office(s) used by the SLCC
- Implement new statutory rules to support the move to a fully paperless service in operations and engagement with the profession
- Make more of our advice and guidance easily accessible online to provide support to firms on good complaint handling and reducing the common causes of complaints
- Track and test developments in AI which might improve our efficiency or effectiveness
- Ensure this work does not create any 'digital exclusion' for those with restricted access to digital tools.

## People

4.39 Actions set out in our detailed operating plan include ones to:

- To ensure the effective management of a 'blended' model as lockdown restrictions ease and before long-term decisions (and investment) on operating model are taken
- An accommodation review (in line with lease renewal) and office environment review to support effective work and wellbeing
- The recruitment, working with the Public Appointments Team, of a new Board with the skills and aptitudes required to continue the ongoing delivery of this strategy.

### **Consumer Panel**

4.40 The statutory Consumer Panel is part of the SLCC and is funded and supported by it. However, it has a remit defined in law and its decision making and prioritisation is independent of the SLCC's Board and Executive.

4.41 Whilst the SLCC's adjudication functions are impartial, the Consumer Panel exists to ensure an equal voice for consumers in a context where professional input is more readily available from established and well-funded organisations. It also assists in ensuring services are equally understandable and accessible to all, again in a context where lawyers already find this easier due to their professional knowledge and expertise.

4.42 The Consumer Panel consulted on its priorities:

- Provide input and advice to the SLCC in delivering its change and improvement work to ensure it meets consumer needs
- Ensure consumer input to the development of the Scottish Government's reform proposals and legislation
- Support the SLCC to develop its approach to service design. Carry out consumer research to inform policy and practice
- Engage with Consumer Scotland to encourage a focus on legal services.

### **Our operating plan – including our other statutory duties - KPIs**

4.43 The Board sets a global operating plan delivery target of 85% of projects fully delivered on time and on budget. Where there are variances (external factors, overrun outwith control, etc.) these are raised with the Board quarterly.

## 5 Where can we find efficiencies?

5.1 The SLCC is committed to finding efficiency savings each year. Where possible, we use these to offset the need for increases to the general levy, as we are proposing this year.

5.2 Since 2015 we have set out savings made each year in our consultation. Past examples continue to deliver annual savings, including:

- Reduction in senior management numbers
- Reduction in staff numbers from 2019-2020 onwards
- Successful 'agile' testing of over 79 changes to our core complaints process to assess their impact in efficiency, with many delivering results (see reduced staff costs, below)
- Pension savings negotiated with Lothian Pension Trust, as we have made arrangements for the final closure of the scheme inherited from the Scottish Legal Services Ombudsman
- Bringing payroll in-house
- Lease savings negotiated with our landlord, as well as decreasing the floor plate we rent
- Reductions in print and IT costs
- Reduction in travel cost (Covid-19 related).

5.3 Projected efficiency savings in the coming year (compared to the budget for 2021-2022) include:

- Reduced direct legal costs on cases (**£31,595**)
- Reduced depreciation (**£30,194**)
- Reduced member costs (partly related to reduced travel due to Covid-19) (**£20,000**)
- Reduced staff expenses (partly related to Covid-19) (**£1,000**)
- Minor reduction in other budget lines (**£2,000**)

This totals over **£84,000** of savings.

## 6 What increases costs in the environment we work in?

- 6.1 Over the last few years a key driver of costs was increasing number of complaints.
- 6.2 Since 2019-2020 this trend has changed, we currently think largely driven by lower complaints related to Covid-19. Savings have been passed on the profession in a reduction on the levy last year, and planned for this year.
- 6.3 However, other costs have increased, and are detailed below.
- 6.4 The net position (of the increases below, and the efficiencies in Section 5) lead to a small (0.9%) increase in planned expenditure.
- 6.5 In the year this budget relates to (2022-2023) the financial outturn of our last complete financial year (2020-2021), and the projected savings we expect to make this year, mean we can reduce the levy, despite the small increase in expenditure.

### Operating cost increases

- 6.6 **Salaries** – each year we must award at least the minimum Scottish Government pay settlement. No decision has been made on pay increases for the coming period. However, we have been advised that bodies should include provision for a pay deal within budgets.
- 6.7 We have made provision for an additional **£76,000** to meet this requirement. We may be able to reduce this figure before a final budget is laid in April if the Scottish Government pay position is clear by that time.
- 6.8 Other costs increases this year are:
- IT costs (**£60,000**)
  - staff costs (**£57,730**).
  - bad debt provision (**£25,750**)
  - property costs (**£3,158**)
  - office running costs (**£3,061**).

### Structural issues affecting cost

- 6.9 **We continue to see a measurable increase in the complexity of complaints**, with the number of distinct issues per complaint increasing. This increase in complexity is something other complaints bodies are also reporting.
- 6.10 **We have work planned to try to prevent the common causes of complaints**, and continue to see this as one of the primary ways to avoid cost increases.

### Failures of the profession to respond as a driver of cost

- 6.11 In previous consultations and annual reports we have highlighted the cost of having to repeatedly chase solicitors for files, and moving to legal action to obtain them. This continues to be a significant issue affecting our ability to deliver a swift complaints process and to drive further efficiencies, and therefore a significant avoidable cost for the profession.



- 6.12 Every year, 30-40% of requests for client files are ignored by solicitors, despite the SLCC having legal powers to access these. Years of polite reminders and supportive discussions with firms have had little effect, and we were planning to move to strong enforcement through the courts.
- 6.13 That was delayed due to the Covid-19 pandemic. However, we noticed during the lockdown period that, despite the fact we'd issued a regulatory forbearance statement, many firms still found ways to comply on time. Our thanks go to those firms. Other firms have continued to ignore their statutory duty. Because of that we have now activated our plan to take any solicitors who fail to comply to court. This will be done for a set period, and we will monitor the impact.
- 6.14 We have reported publicly on early cases of this, hoping that it promotes a better response from the profession in the future. For example:
- <https://www.scottishlegalcomplaints.org.uk/about-us/news/next-step-in-legal-action-to-access-files-for-investigation/>
  - <https://www.scottishlegalcomplaints.org.uk/about-us/news/further-success-for-slcc-in-securing-files/>
- 6.15 However, enforcement requires significant costs:
- **Staff and management** time in reminders, tracking cases, making enforcement decisions, working with lawyers, updating parties – all this is 'waste'; time and cost which would not need spent if lawyers complied with their statutory duties.
  - **Legal costs** – on advice, and on the initial pre-court correspondence which is required – despite awards of costs, not all of this is recoverable.
  - **Governance costs** – the issue is taking Board time, Audit Committee time, is being discussed in our audits, etc.
  - **Communication costs** – as we seek to encourage the profession to comply, when this should already be happening or could be done more efficiently by others who have access to the contact details for the whole profession (which the SLCC does not).
  - **Ancillary costs** – sheriff officers to serve papers, additional courier costs.
- 6.16 In our consultation, we specifically welcomed views from the Law Society of Scotland as primary regulator, on the role it could play in tackling a significant level of non-compliance by solicitors, and so to help reduce avoidable cost to the profession and clients.
- 6.17 **Process complexity** – since 2015 we have been active in discussing the uniquely complex, duplicative, and costly complaints process set out in statute. This is in stark contrast to much simpler and more efficient models for other complaints bodies in Scotland, or legal complaints bodies in other jurisdictions, which deliver the same level of effectiveness. 'Eligibility', which was meant to be the 'quick sift' continues to consume more resource than investigation and adjudication combined due to the statutory provisions, again in contrast to the distribution of resource in the majority of complaints bodies.

6.18 Process reform at the SLCC continues at three levels:



6.19 We are pleased the Scottish Government has consulted on both the medium-term changes described above and longer term reform, however, any changes are still some way off, and almost certainly will not impact the 2022-2023 year operationally, and therefore in terms of any efficiency saving.

6.20 Bold reform which would more fundamentally tackle appeal costs and process complexity was proposed following the independent Robertson Review published in October 2018. We continue to be a key voice calling for its implementation.

6.21 **We also want to continue to improve performance across three domains:**

- The time a complaint takes from the day of submission to the final outcome
- The customer satisfaction scores of those who use our services
- The quality and clarity of information provided and of the final decision issued – especially in terms of clear, accessible and understandable language and reasoning.

6.22 Further details of past financial performance, in our published accounts, can be found at:

<https://www.scottishlegalcomplaints.org.uk/about-us/how-we-are-funded/our-annual-accounts/>

6.23 Audit Scotland publish the outcome of their audits of our financial performance, and these are available on their website at: [https://www.audit-](https://www.audit-scotland.gov.uk/report/search?search=Scottish%20Legal%20Complaints)

[scotland.gov.uk/report/search?search=Scottish%20Legal%20Complaints](https://www.audit-scotland.gov.uk/report/search?search=Scottish%20Legal%20Complaints)

## 7 What is the headline budget, and how does it impact the levies?

7.1 This section contains the key information on the overall budget and expenditure. It sets out the key statutory levies we need to consult on each year.

Overall income and expenditure:		
Anticipated income:	£ 3,736,565 (down from the previous year - £3,840,657).	
Anticipated expenditure:	£3,870,446 (0.9% up from the previous year £3,834,475).	
Levies – individual lawyers (2007 Act):		
General levy:	£ 444* (previous year £467)	<i>* the majority of lawyers pay a discounted rate well below this.</i>
Complaints levy:	£5,000 (previous year £5,000)	
Levies – ‘alternative business structures’ (2010 Act):		
Approved Regulator (AR) Fee:	£10,000 (previous year: £3,000)	
AR complaints levy:	£8,000 (previous year: £8,000)	
Licensed Provider (LP) Fee:	£1,000 (previous year: £1,000)	

7.2 Definitions of these levies, and further details on the approach we have taken to the budget, expenditure and levies are in **Sections 8 & 9** below.

7.3 The full budget, and details of levy discounts, can be found in **Appendix 1**.

## 8 Approach to budgeting

- 8.1 In line with policy and the practice followed in past years, we followed the approach set out in this section.
- 8.2 As context, the last three years of financial and operational performance are reviewed.
- 8.3 A set of assumptions are created around incoming complaint volumes, business needs, lawyer numbers, work required by law and anticipated under our strategy, and other factors.
- 8.4 Three year projections of income, expenditure, and reserves are created, giving a longer term indicative model.
- 8.5 This is then mapped to the Scottish Government's five year financial strategy – to give wider public sector context.
- 8.6 We then set out anticipated expenditures based on our operational plan.
- 8.7 The general levy is then calculated on the basis of covering anticipated expenditure in full (taking account of small amounts of additional income from bank interest and the separate complaints levy).
- 8.8 The current year forecast outturn at December 2021 is reviewed, together with the results for the financial year to 30 June 2021. This provides an estimate of anticipated reserves at year end, and the implications for the general levy for 2022-2023.
- 8.9 The proposed levy is set, and the budget is issued for consultation.
- 8.10 The responses to the consultation must, by law, be published before the end of March 2022.
- 8.11 The draft budget is reviewed in April 2022, taking into account consultation responses and a further quarter's financial data.
- 8.12 We set the final budget and lay it before Parliament by 30 April 2022.
- 8.13 The final operating plan is set in May 2022.

## 9 Further details on levies

### The general levy

9.1 The general levy has been noted in **Section 7** (above). However, for completeness the general levy is:

- **The general levy is £444** (last year £467)

9.2 The majority of levies are discounted, and further details are available in Appendix 1.

### The complaints levy

9.3 We charge this when a complaint is upheld. The statutory aim was to ensure that some costs could be recovered, often known as ‘polluter pays’, when a complaint was upheld. This was to balance income from the general levy.

9.4 Since July 2019 the complaints levy has been £5,000. Prior to that it was £3,500 from July 2012. We operate a policy of discounting this levy amount where a firm has handled the complaint well, and taking into account various other factors.

9.5 The levy of £5,000 is calculated from the cost of a complaint which has gone through every stage of the complaints process to determination (only around 10% of our total caseload) and requires a panel of three independent Commissioners to make the final decision.

9.6 No change is planned this year.

9.7 The full complaints levy policy can be found at: <https://www.scottishlegalcomplaints.org.uk/media/1341/ch037-complaints-levy-policy-from-01-july-2019-v0101-201905-public.pdf>

- **The complaints levy is £5,000** (last year £5,000)

### Alternative Business Structure (ABS) Approved Regulator (AR) and Licensed Provider (LP) levies

9.8 **AR levy:** Last year this was £3,000 in (having dropped from £20,000, then £8,000). In our 2018 to 2019 financial year we received an element of set-up funding from the Scottish Government to cover historical costs and assist with set up (for example, we developed and consulted on an Approved Regulator complaints process).

9.9 However, in December 2021 the Law Society of Scotland was fully authorised as an Approved Regulator, following its elective choice to become a regulator under the Legal Services (Scotland) Act 2010.

9.10 The levy had been set at a notional amount to represent low costs. However, work is now increasing as the SLCC moves to finalise implementation, and there will be an ongoing need to deal with enquiries, update communications and support work in this area. The fee must ensure the work we must do is not subsidised by income from the main levy. We are therefore proposing an increase to this fee.

9.11 No AR complaints have been received, although we have had some enquiries.

9.12 This levy will be collected.

9.13 In future years this levy may fluctuate significantly again, depending on the work we have to carry out.

9.14 **AR complaints levy:** The complaints levy allows some of the costs of a complaint that is upheld to be mitigated. Modelled on similar functions in other similar bodies, an investigation and a decision could range in cost from a

few thousand pounds to £100,000. With set-up costs now recovered this reduced two years ago from £10,000 to £8,000. We did not consider there is any new data to vary the amount further this year, and the fee is only charged if a complaint is upheld (and can be waived in part or full).

9.15 It is hard to predict what complaints may arise in the first full year of the Society being fully approved. The levy may change significantly in future years.

- **The AR levy is £10,000** (last year £3,000).
- **The AR complaints levy (for a complaint that is upheld) is £8,000** (last year £8,000).

9.16 **Licensed Provider (LP) Levy:** Complaints about LPs are similar to the types of complaint the SLCC already handles, although new systems and templates are required, and new legal issues will arise.

9.17 Based on discussions we have had with the Law Society of Scotland it still appears unlikely that any LPs will be fully licensed by July 2022, when the first levy will be collected. As a consequence, it may be that no fees are collected.

9.18 An LP may have a single lawyer providing legal services within it, but may have tens or hundreds of other professionals and/or advisers working within it. We have no information from the LSS on the likely size of new LPs, or on what model they will follow. We remain concerned that, at the moment, no advertising campaign or major engagement with possible new entrants to the market appears to be planned with a view to rapidly increasing the number of LPs that contribute to the costs of this regulatory scheme. We are thus also concerned that the market may remain small for the next three to five years.

9.19 It is unlikely any LP levies will be received within the year. The levy may change significantly in future years.

- **The LP fee is £1,000** (last year, £1,000).

## 10 Reserves

- 10.1 We currently hold reserves of £1,192,424 at the start of the 2021-2022 financial year.
- 10.2 This figure is now within the parameters set out in the reserves policy, which is constantly under review based on risks and operating costs. In previous years reserves were lower than the policy threshold, and we have been seeking to address that following clear guidance from our auditors.
- 10.3 The budget agreed for this year envisages using some reserves to support a deficit budget.

## 11 Income

11.1 The SLCC has based income on:

- Anticipated income from the **general and AR levies**. This is forecast to be £3,523,065 for 2022-2023.
- Anticipated income from the **approved regulator levy**. This is forecast to be £10,000 for 2022-2023.
- Anticipated income from **interest earned on deposits**. This is forecast to be £20,500 for 2022-2023, thus reflecting current and anticipated levels of investment return.
- Estimated **complaints levy** income of £183,000 has been recognised for budget purposes for the financial year 2022-2023. This reflects the changes made to the complaints levy policy three years ago, the level of awards now being made at the Determination Committee stage of the process, and the level of recovery. Development of this source of income, to reflect the costs incurred on such cases, helps lessen future rises in the general levy.

11.2 To fund the estimated expenditure it is then envisaged there will be a release from **reserves**. This is forecast to be £133,881 for 2022-2023.



## Appendix 1: Budget for 2022-2023

### Summary of levies, income and expenditure

#### 2022-2023 Levy & Budget

Actual General Levy Set	£
Private Practice Solicitors +3 Years (Principals/Managers)	444
Private Practice Solicitors +3 Years (Employed)	361
Conveyancing or Executry Practitioner 3+ years	361
Solicitors in first 3 years of practice	152
Practising outwith Scotland	118
In-house Conveyancing or Executry Practitioner	108
In-house Lawyers	108
Advocates +3 Years	171
Advocates in first 3 years of practice	143
Association of Commercial Attorneys	115

Total Actual Levy required from each Professional Body	£
Law Society of Scotland	3,448,044
Faculty of Advocates	74,446
Association of Commercial Attorneys	575
	<b>3,523,065</b>

Income and Levy	£
Levy from Law Society of Scotland	3,448,044
Levy from Faculty of Advocates	74,446
Levy from Association of Commercial Attorneys	575
Contribution from Complaint Levy	183,000
Approved Regulator Levy	10,000
Estimate of Interest Earned	20,500
	<b>3,736,565</b>

Expenditure	
Staff and Related Costs	2,825,226
Non-Staff Costs	1,045,220
	<b>3,870,446</b>

<b>Budget Deficit</b>	<b>(133,881)</b>
Release from SLCC Reserves	133,881
<b>2022-2023 Budget Position</b>	<b>0</b>

## Breakdown and comparison of expenditure and levy

### Expenditure 2022-23

	2021-22 Budget	2022-23 Budget	Variance
Staff Costs	2,620,863	2,678,593	(57,730)
Member Costs	100,000	80,000	20,000
<b>Total Staff Costs</b>	<b>2,720,863</b>	<b>2,758,593</b>	<b>(37,730)</b>
Staff Training and Development	30,000	30,000	0
Member Training and Development	6,500	6,500	0
Staff Expenses	2,500	1,500	1,000
Member Expenses	7,500	7,500	0
Other Staff costs	20,761	21,133	(372)
<b>Total Indirect Staff Costs</b>	<b>67,261</b>	<b>66,633</b>	<b>628</b>
Property costs	346,456	349,614	(3,158)
Office Running Costs	53,965	57,026	(3,061)
Direct Case Costs	237,195	205,600	31,595
Communication Costs	24,500	24,500	0
IT Costs	155,000	215,000	(60,000)
Other Costs	74,730	72,730	2,000
Depreciation	80,194	50,000	30,194
Bad Debt Provision	20,000	45,750	(25,750)
Investment to reduce Office Dependency	54,311	25,000	29,311
<b>Total Non-Staff Costs</b>	<b>1,046,351</b>	<b>1,045,220</b>	<b>1,131</b>
<b>Total Expenditure</b>	<b>3,834,475</b>	<b>3,870,446</b>	<b>(35,971)</b>

### Levy Income

#### Levy Income

	Levy	No's	Income
Private Practice Solicitors +3 Years (Principals/Managers)	444	3,210	1,425,240
Private Practice Solicitors +3 Years (Employed)	361	3,744	1,351,584
Conveyancing or Executry Practitioner 3+ years	361	4	1,444
Solicitors in first 3 years of practice	152	970	147,440
Practising outwith Scotland	118	966	113,988
In-house Conveyancing or Executry Practitioner	108	3	324
In-house Lawyers	108	3,778	408,024
Advocates +3 Years	171	381	65,151
Advocates in first 3 years of practice	143	65	9,295
Association of Commercial Attorneys	115	5	575
		<b>13,126</b>	<b>3,523,065</b>

## Appendix 2: Abbreviations and technical terms

Abbreviation or Term	Meaning
<b>ABS</b>	Alternative Business Structure; the name used in the media for LPs (see below).
<b>AR</b>	Approved Regulator; a regulatory body created by the Legal Services (Scotland) Act 2010.
<b>CPD</b>	Continuing Professional Development; the ongoing training that many professionals are required to undertake as part of their right to practice.
<b>CPI</b>	Consumer Price Index
<b>CRM</b>	Client Relations Manager
<b>DP</b>	Data Protection.
<b>First-tier complaints</b>	When a law firm or advocate/advocate's clerk manages the initial complaint about a lawyer. Usually a consumer must first complain to that lawyer before they can come to the SLCC.
<b>FoA</b>	Faculty of Advocates; the professional body for advocates and one of the RPOs in terms of our statute.
<b>FOI request</b>	A request made under The Freedom of Information (Scotland) Act 2002.
<b>FVTWM</b>	Frivolous, vexatious, or totally without merit
<b>HR</b>	Human Resources.
<b>KPIs</b>	Key Performance Indicators; these are key elements of data from our business which let us know how we are performing and if we are meeting our goals.
<b>LP</b>	Licensed Provider; a new type of legal services business ('law firm') created by the Legal Services (Scotland) Act 2010.
<b>LP&amp;LA(S)Act 2007</b>	The Legal Profession and Legal Aid (Scotland) Act 2007
<b>LS(S)Act 2010</b>	Legal Services (Scotland) Act 2010.
<b>LSS</b>	The Law Society of Scotland; the professional body for solicitors and one of the RPOs in terms of our statute.
<b>Our statute/the Act</b>	The Legal Profession and Legal Aid (Scotland) Act 2007.
<b>PCS</b>	Public and Commercial Services Union
<b>Reporter</b>	An independent individual who assists in undertaking an investigation and writing an investigation report.
<b>RPO</b>	Relevant Professional Organisation; in terms of our statute. These are currently The Law Society of Scotland, the Faculty of Advocates and the Association of Commercial Attorneys.
<b>Second-tier complaints</b>	When a complaint comes to the SLCC, generally after having given the lawyer and/or firm that is the subject of the complaint the opportunity to consider that complaint first.
<b>SLCC</b>	Scottish Legal Complaints Commission.
<b>SSDT</b>	Scottish Solicitors' Discipline Tribunal; the independent tribunal at which the LSS prosecutes solicitors for professional misconduct.