



FACULTY OF ADVOCATES



25 January 2018

Ref: L01-7/WGJ/AT

Neil Stevenson, CEO
Scottish Legal Complaints Commission
The Stamp Office
10-14 Waterloo Place
Edinburgh, EH1 3EG

Dear Neil

Operating Plan and Budget for 2018/19

I am pleased to offer a response on behalf of the Faculty to the SLCC's operating plan and budget.

You have of course previously heard from me, and indeed from my predecessors, regarding the levy paid by members of Faculty, in light of the extremely low level of complaints made (year on year) against Advocates. Last year, I observed that it was very difficult indeed to see why Advocates were being asked to pay an increased levy. That observation was ignored.

Against that background, it is gratifying to see that the operating plan and budget for the year going forward recognises the historical unfairness that has operated. In particular I note the following comments:

- A major reason for increased SLCC costs was litigation incepted by the Law Society, in which the Faculty played no part (page 5).
- "There would be strong arguments that increases to the levy should fall [on private practitioners] but no rise for ... advocates (who over the last five years have had, on average, only 16 complaints and sometimes as low as only 10)" (page 12).

"The lowest level of all complaints is against advocates. If, on the basis of cost and risk, no increase were applied this year to advocates all other lawyers would

THE DEAN OF FACULTY

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- have a 8.7% increase [instead of 8.5% if advocates were included in the increase]" (page 12).

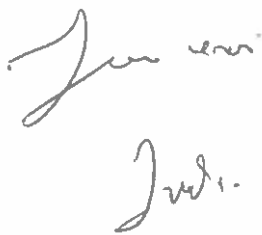
Against that backdrop, which is of course factually accurate, the plan then sets out three options (page 15):

1. An equal rise for all lawyers (8.5% for all)
2. No increase for advocates, but increase for all solicitors (8.7% for solicitors) – very few complaints are received about advocates, there has been no significant increase in complaints, there has been no litigation from the Faculty of Advocates adding to our cost base.
3. Only increase the fee for private practice solicitors (no rise for in-house solicitors, advocates or commercial attorneys) (10% for private practice solicitors only). This reflects that as well as advocates being a low source of complaint, so too are in-house lawyers, and likewise no data suggests complaints from this area are increasing. All complaints which have been the subject of the rise in litigation also related to private practice lawyers.

You will be aware from previous Faculty submissions of concerns raised by myself and my predecessors that the levy charged on members of Faculty are disproportionate. We have very clearly arrived at the point where any further increase for the coming year would, standing the comments quoted above, be grossly disproportionate. Against that backdrop, requiring members of faculty to thole an 8.5% increase in levy would indeed be disproportionate to the point of being irrational. That is particularly so when the difference for the rest of the legal profession - were no increase to be made to Faculty levies – might be as low as 0.2% (8.7% as opposed to 8.5%).

In the circumstances, whilst I have no strong views as to whether it is Option 2 or Option 3 that SLCC should adopt for the coming year, I would strongly urge the Commission to reject Option 1 (an increase across the board) as unfair, disproportionate and irrational.

I look forward to hearing from you further in this regard.



Gordon Jackson QC