

# Scottish Legal Complaints Commission Annual Report 2008 - 2009



## Scottish Legal Complaints Commission Annual Report 2008 - 2009

This Report covers the SLCC's first nine months of operation  
from 1 October 2008 until 30 June 2009

Laid before the Scottish Parliament by the Scottish Ministers,  
pursuant to section 16 of Schedule 1 of the  
Legal Profession and Legal Aid (Scotland) Act 2007

February 2010

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## Report from the SLCC Chair



**“... we have focused on delivering an excellent service built on our core values – accessibility, independence and impartiality”**

**T**rends, achievements and bold observations are normally the stuff of annual reports, but as a relatively new organisation the SLCC quite simply does not have the history and vision of the future that only time and experience will provide.

This annual report covers the first nine months of our operational life and documents our journey implementing a brand new system for dealing with complaints against legal practitioners and oversight functions. We recognise that the statistics we hold only provide a snapshot of what is currently happening, therefore now is not the time for the SLCC to make bold pronouncements.

What this report does instead is to strip down to essentials. As a Board we have focused on delivering an excellent service built on our core values – accessibility, independence and impartiality. The report sets out our aims and succinctly explains how we have operated, the work completed, costs incurred and what we want to achieve in our second year.

Our aim is to present a report that helps everyone with an interest in our work, to quickly grasp what we have done; how and why.

The SLCC is a learning organisation, dealing with issues assisting the vital delivery of legal services. We know we are dealing with complex complaints, difficult issues and a sophisticated profession. We are also very aware that we operate at a time where great changes, in the form of alternative business structures and the effects of the economic downturn, are occurring in legal services. No-one knows what will emerge in the future or if the current complaints, disciplinary and insurance systems will be appropriate.

We want to engage with everyone who has an interest in our services and in legal service delivery. We want to work with you to improve our own standards, as well as legal service standards in Scotland. We want to encourage constructive dialogue, ideas for improvements and collaborative discussion. We also want to receive feedback on the way we are operating.

I hope you will read this document and tell me if it provides what is needed to encourage your active involvement in our work.

Jane Irvine  
Chair of the Scottish Legal Complaints Commission

## Report from the SLCC Chief Executive



**“It is our role to ensure that everyone involved is treated with courtesy and as an individual”**

**I**n August 2008, I took up my appointment as Chief Executive of the SLCC; an organisation in the making. The senior management team joined me in September and with a launch date of 1st October; it was the start of what has been an extraordinary, exciting and challenging nine months.

As Chief Executive of a new complaints body, my aims for the SLCC are simple and specific. I want my staff to appreciate that whether someone is a complainer or being complained against, it can be stressful. It is our role to ensure that everyone involved is treated with courtesy and as an individual.

I want the SLCC to be a listening organisation. We listened to concerns from people who had experienced difficulties trying to claim against the Scottish Solicitors' Master Policy and Guarantee Fund. We responded by commissioning the University of Manchester's School of Law to carry out research into its effectiveness. This is the first step towards exercising our oversight role as defined in the Legal Profession and Legal Aid (Scotland) Act 2007.

We are funded by an annual levy, paid by members of the

legal profession. We listened to their concerns regarding the economic downturn and how many people faced redundancy. We responded by reducing practitioner's levies by 50% in our 2009/2010 Budget. Further, as we are committed to settling complaints, we removed the levy for practitioners taking part in mediation as an alternative method of complaint resolution. However, if a complaint against a legal practitioner is upheld, the complaint levy doubled.

To assist us in our function we appointed additional new staff, mainly to the management and operational teams. Staff also joined us, in October and November respectively, from the former office of the Scottish Legal Services Ombudsman and from the Law Society of Scotland. There is ongoing work to harmonise their contract conditions and I am aware that this is an unsettling time for all those involved. I must thank them for their forbearance. I must also thank all the staff for their efforts in establishing an office and service that are impartial, independent and accessible.

Eileen Masterman  
Chief Executive of the Scottish Legal Complaints Commission

## Getting started

“The short timescale, from the initial consultation to the opening of the new organisation, is a great testament to the quality of the discussion and input from consumer groups, the representative bodies, the Scottish Government and our own staff”

Jane Irvine  
Chair of the Scottish Legal Complaints Commission

**December 2005**

The Scottish Government announces the creation of an independent body with the remit of increasing public confidence in the justice system. This is to be achieved by putting service users at the heart of the complaints handling process. The new body is to be called the Scottish Legal Complaints Commission.

**May-August 2005**

The plans for the SLCC are developed following a consultation exercise, “Reforming Complaints handling, Building Consumer Confidence”.

**February 2006**

The Legal Profession and Legal Aid (Scotland) Bill is introduced to the Scottish Parliament.

**December 2006**

The Bill is passed.

**January 2007**

The Bill gains Royal Assent.

**January 2008**

The Justice Secretary, Kenny MacAskill, announces the appointment of the first Chair and Members of the Board of the proposed new independent legal complaints handling body. The Board is appointed by Scottish Ministers in consultation with the Lord President of the Court of Session and comprises four lay members and four lawyer members and a lay Chair, who is Jane Irvine, the Scottish Legal Services Ombudsman.

The organisation is to be set up by the Scottish Government but funding will come from legal professionals in the form of a levy as a condition of their practising certificate.

With the Chair and Board in place, work starts to set up an operational framework for the SLCC.

**March 2008**

The consultation on the setting of the SLCC’s first annual budget and the associated levies is published.

**June 2008**

The Scottish Legal Complaints Commission announces the appointment of its first Chief Executive Officer, Eileen Masterman.

**July 2008**

The SLCC announces it is preparing its first office within The Stamp Office at 10 Waterloo Place, Edinburgh.

Mediation is to be one of the five stages of the process for addressing complaints and work commences to establish a Mediation Pilot Scheme. The Mediation Manager starts to develop plain-English documentation. Policies and procedures are developed and put in place.

**August 2008**

Eileen Masterman, the Chief Executive starts work.

**September 2008**

The Head of Investigations, Head of Communications and Human Resources Manager join the Chief Executive at a temporary base at the Office of the Scottish Legal Services Ombudsman.



Later in the month, the SLCC publishes its Rules, containing a draft Complaint Application Form and Governance Documents.

Eleven highly experienced independent mediators are recruited to undertake mediations. Each is to be paid only for the complaints they mediate and all are required to participate in ongoing professional development sessions run by the Mediation Manager.

**1 October 2008**

The Scottish Legal Complaints Commission is opened by the Justice Secretary, Kenny MacAskill.

## About the SLCC

“As an organisation that is structured to be completely independent, impartial and accessible, the SLCC will bring a different approach to addressing legal complaints in Scotland.”

Eileen Masterman  
Chief Executive of the Scottish  
Legal Complaints Commission

### WHAT WE DO

An Inquiry into the Regulation of the Legal Profession was conducted by the Justice Committee of the Scottish Parliament. On completion, the Scottish Executive (now the Scottish Government) agreed that change was required and the Legal Profession and Legal Aid (Scotland) Act 2007 was introduced. The Act established the SLCC.

The SLCC provides a single point of contact for all complaints against legal practitioners in Scotland; a legal practitioner is someone who is a qualified solicitor, advocate, conveyancing and executry practitioner or commercial attorney.

The Act encourages practices and practitioners to resolve the grievance themselves. Where this is not possible, we aim to provide an easily accessible and effective dispute investigation and resolution service.

Complaints received about a legal practitioner will be considered and a decision taken on whether or not these should be investigated.

The SLCC investigates complaints about service provided by a legal practitioner and we pass complaints about professional misconduct or unsatisfactory professional conduct

to the relevant professional body for investigation. The SLCC, however, oversees how these complaints are investigated by the professional bodies.

The SLCC aims to be of service to both the public and the profession. We have an additional responsibility to share best practice, monitor trends, and highlight areas of concern. We are committed to the use of mediation to resolve disputes between practitioners and their clients. In the right circumstances, mediation can be a quick and successful method of resolving complaints.

### THE SLCC'S OVERSIGHT ROLE

The SLCC has the authority to oversee and monitor the way in which the Professional Bodies investigate conduct complaints. We also have the powers to monitor and to issue guidance to practitioners about dealing with legal complaints.

Under the terms of the Legal Profession and Legal Aid (Scotland) Act 2007, the SLCC also has the authority to oversee the Master Policy and Guarantee Fund.

## Who we are

“I am fortunate to have Board Members with a wide range of experience and expertise. This, combined with an enormous capacity for hard work, enabled the SLCC to be set up and opened in an extremely short period of time”

Jane Irvine  
Chair of the Scottish Legal  
Complaints Commission

### PUBLIC OR PRIVATE BODY?

Although the SLCC was set up by the Scottish Government, we are not considered a public body as we have both public and private attributes.

In common with public bodies, we are subject to freedom of information, standards in public life and the Human Rights Act 1998. Our private attributes mean that we are responsible for our own finances, set our own annual budget and are not funded by the public. Our funding comes from the legal profession in Scotland and this is through the payment of a levy which is collected from their members by the Law Society of Scotland, the Faculty of Advocates and the Association of Commercial Attorneys. The levies for Conveyancing and Executry Practitioners are collected by the Law Society of Scotland.

The SLCC is governed by a Board of Commissioners or Members and the work of the organisation is carried out by the SLCC staff under the direction of the Chief Executive.

### THE BOARD

Our Board is appointed by Scottish Ministers in consultation with the Lord President of the Court of Session. Currently, the Board comprises a lay Chair, 4 lay Members and 4 lawyer Members.

We must have a minimum of 4 or maximum of 8 lay Members and a minimum of 3 or maximum of 7 lawyer Members. Ministers may change the number and balance of the Members, but there must always be a majority of lay people. Membership of the SLCC Board is for 5 years as Chair and 4 years as a Member.

**The Chair is Jane Irvine** who was the Scottish Legal Services Ombudsman from April 2006 until September 2008. The Ombudsman's Office closed as the SLCC opened on 1st October 2008. She is a specialist in consumer complaints having held a number of positions as a mediator, arbitrator and adjudicator of consumer complaints. Between 2001 and 2005 she was HM Lay Inspector of Constabulary, and considered the handling of complaints against the police in Scotland. Jane later prepared a report on modernising police complaint and conduct systems for the Justice Minister. She also sat on a range of disciplinary tribunals and also currently sits on the Discipline Board of the Institute of Actuaries.

**The Lay Members** are Douglas Watson, Dr Linda Pollock, Professor George L Irving CBE and Ian Gordon OBE, QPM, LL.B, (Hons).

**Douglas Watson** was a police officer for 30 years and is currently an Adult Protection Development Officer for Edinburgh, Lothian and Borders Executive Group. He was

previously a chairing member of the Child Protection Committee, Scottish Borders Council and Edinburgh Drug and Alcohol Action Team. Mr Watson was also a lay Committee Member for the Law Society of Scotland and is a Sessional Inspector with the Social Work Inspection Agency.

**Dr Linda Pollock** has had a broad based career in the NHS with clinical, teaching, research and management experience. She was an Executive Nursing Director until 2006, and interim Board Nurse Director (2002-2003). Her last role, before leaving the NHS, was a full time secondment as the Chief Nursing Officer's Advisor for Nurse Prescribing. Dr Pollock was a part time nurse member of the Mental Welfare Commission (1997-2005) and is currently a registrant member of the Nursing and Midwifery Council Appointments Board.

**Professor George Irving** was Director of Social Work for North Ayrshire Council and during 1999-2000, he served as President of the Association of Directors of Social Work (Scotland). From 2001-2006 he was Chair of NHS Ayrshire and Arran. Professor Irving also led the National Support Team, Management of Offenders 2005-2007 and is currently a Visiting Professor to Glasgow Caledonian University School of Health and Social Care.

**Ian Gordon** is a retired Deputy Chief Constable of Tayside Police. He is currently an Associate Professor in Policing for Charles Sturt University (Australia). Mr Gordon was Chair of the Association of Chief Police Officers in Scotland (ACPOS) Professional Standards Business

Area and Vice-Chair of ACPOS General Policing Business Area.

**The Lawyer Members** are Professor Alan Paterson, David Smith, Margaret Scanlan and David Chaplin.

**Alan Paterson** is a Professor of Law and Director of the Centre for Professional Legal Studies at Strathclyde University, an independent "Think Tank" on the Scottish Legal System. He has researched and published on, the regulation of lawyers and the provision of public legal services for over twenty years. Although he is qualified as a solicitor in Scotland, Professor Paterson has never practised. He served as a co-opted member of the Council of the Law Society from 2001 until 2008. He is currently a Research Adviser to the Scottish Legal Aid Board, and a member of the Judicial Appointments Board.

**David Smith** is a retired solicitor. He was a commercial property partner with Shepherd and Wedderburn LLP for 34 years, including 6 years as Chairman. Mr Smith has extensive experience of client relations, professional negligence and risk management work.

**Margaret Scanlan** is an accredited specialist in family law with Russells Gibson McCaffrey. She has also tutored in family law at Glasgow Caledonian University. Mrs Scanlan was a member, and latterly Deputy Chair, of the Scottish Legal Aid Board between 1997 and 2007. She was Director of the Legal Defence Union between 1998 and 2002. Mrs Scanlan was a founder member of both Strathkelvin Women's Aid and the Family Law

Association and she held the post of Chair of the latter between 1992 and 1993.

**David Chaplin** was the senior partner in Anderson Fyfe for 17 years until he retired in 2008. He is a specialist in insolvency law. Mr Chaplin was the Client Relations Partner for ten years and advised in pre litigation resolution of commercial disputes. He was a member of the Education Committee of the Royal Faculty of Procurators in Glasgow during 2004/2005.

**The Chief Executive is Eileen Masterman.** Eileen has extensive experience in senior roles in both the private and public sectors and held a number of public appointments in Scotland and the UK. She is a former Chief Executive of Homes for Scotland and was previously Director of the Royal Institution of Chartered Surveyors in Scotland. Her previous complaints investigation role at the Scottish Public Services Ombudsman reflects past similar positions, notably with the Commissioner for Local Administration in Scotland. In addition she was a volunteer lay representative dealing with complaints of professional misconduct and poor professional service.

The Chief Executive is supported by her Personal Assistant, the Head of Investigations, Head of Communications, Human Resources Manager, Clerk to the Board, Secretariat to the Board, Investigations Manager, Gateway Team Manager, Gateway Team, Investigation Team, Office Manager and Mediation Manager.

## Our people and processes

**“In order to run a professional organisation operating to high standards, it is vital to have a high calibre of staff working within a framework where we operate a high standard of complaint handling in an even-handed way”**

Eileen Masterman  
Chief Executive of the Scottish  
Legal Complaints Commission

We pride ourselves on the professionalism and expertise of our people, who help to ensure that every complaint is given the most appropriate attention. Add to this, our structured processes and the result is clarity, speed of resolution and fairness.

**Combined, our people and processes:**

- encourage and support early resolution;
- are independent, impartial and accessible;
- provide expert and appropriate advice;
- provide appropriate information to enable informed decisions;
- are developed to support complaint handling that is effective, fair and practical;
- develop and maintain strong working relationships and regular contact with outside bodies. Communication is open and beneficial to all – the SLCC, the Law Society of Scotland, the Faculty of Advocates, the Association of Commercial Attorneys, the Scottish Government, consumer groups, legal practitioners and other stakeholders;
- offer and provide assistance on best practice in complaints handling;
- foster an open exchange of information and ideas and provide regular opportunities for feedback on the work of the SLCC.

### OUR PEOPLE:

With clear personal and organisational goals, competitive terms and conditions and regular feedback, we recruit and retain excellent people. Working on behalf of complainers and practitioners to handle complaints fairly, quickly and amicably: our people are committed, well trained and continuously developed. They are excellent communicators and their individual strengths and combined experience means that together, we make a great team.

### OUR PROCESSES:

The processes that underpin our work are clear and are written in an understandable language. All of our procedures are reviewed regularly, are based on experience, and are shared with our stakeholders to encourage and promote good complaint handling. In addition our processes are supported by secure and effective technology and systems which result in both robust and efficient working practices. By regularly reviewing our processes, we make sure they remain proportional and that we achieve value for money.

## Our aims and values

“Defining our Aims and Values brought together strong views and aspirations from our staff and Members. This is the ethos of how the SLCC operates and the standards all parties involved in a complaint can expect”

Jane Irvine  
Chair of the Scottish Legal Complaints Commission

Together, our Board Members and staff have set out the core aims and organisational values and we are committed to delivering services in line with these.

Our work is based on our core aims of independence, impartiality and accessibility and our organisational values of objectivity, accountability, openness, personal responsibility, consistency and proportionality.

### WHAT OUR CORE AIMS MEAN:

#### Independence:

- We do not promote the interest of either party – either the person complaining or the person complained against.
- We operate free from any outside influence or control.

#### Impartiality:

- We are fair and even-handed to all the parties to a complaint.
- We offer advice to any party to a complaint to allow the matter to be resolved early, where possible avoiding the need for a formal complaint to us.
- We look carefully at all the facts presented to us. We then make fair and reasonable proposals for settlement and determination.

#### Accessibility:

- We are approachable and we communicate clearly, understandably and in the most appropriate way.
- We explain all of our decisions.
- Our service is available to everyone. We are not a court and aim to deal as informally as possible with the circumstances of each complaint. No-one should need expert help to pursue or defend their complaint with us.

### THESE ARE THE VALUES OF THE SLCC:

The SLCC is founded on core organisational values. These values underpin the service we offer and form the essence of our working practices. In addition, these values extend to two key areas which are fundamental to the very nature of our organisation; our people and processes.

- **Objectivity:** we are focused and impartial in everything we do;
- **Accountability:** we take ownership of our work and are answerable for what we do;
- **Openness:** we listen to and consider new ideas and suggestions readily;
- **Personal responsibility:** we are responsible for our own actions and for promoting the SLCC’s values;
- **Consistency:** we endeavour to make similar decisions on cases with similar circumstances;
- **Proportionality:** we take a flexible, balanced approach and use a range of investigation techniques which reflect the needs of the parties involved, their circumstances and the nature of the complaint.

## Making a Complaint

“The complaint handling procedure has been drawn up from a ‘clean sheet’ and anyone taking a complaint forward will benefit from a single gateway approach and the opportunity to use the services of trained mediators at every stage”

Eileen Masterman  
Chief Executive of the Scottish Legal Complaints Commission

### MAKING A COMPLAINT

The SLCC deals with a range of enquiries relating to complaints about the legal profession. As the gateway for all complaints about legal practitioners, we record the receipt of complaints, assess eligibility and either deal with the complaint ourselves or refer it to the appropriate professional body.



There are four stages to the SLCC complaints process:

#### 1 Eligibility

To be eligible, a complaint must meet certain criteria as laid down in the Legal Profession and Legal Aid (Scotland) Act 2007. The criteria are slightly different depending on what type of complaint it is and when the practitioner was instructed or the conduct incident occurred.

#### 2 Mediation

Once a complaint is deemed eligible and if it is about a service provided, the complaint can be considered for mediation. Participation in the mediation process is voluntary and must be agreed by both the complainer and the practitioner. Mediation is a confidential process which gives the complainer and the practitioner the opportunity to meet together with an independent third-party; the mediator. The mediator helps the parties to talk through the problem to see if they can agree a fair and reasonable solution. If an agreement is reached at this stage, the SLCC will check to make sure it is implemented. If mediation does not resolve the complaint it is passed to our investigation team.

We must receive a completed and signed complaint form before we can progress a complaint to the next stage. If assistance is needed, a member of our Gateway Team can offer advice and can help to complete the form.

### 3 Investigation

An investigator will make initial enquiries and give both parties the opportunity to respond and put forward their points of view. The investigator may also make other appropriate enquiries which might include:

- examining the practitioner's or professional body's files;
- asking either party for further information;
- approaching third-parties for information.

When enquiries are completed, the investigator will draft a report and send it to both parties. If both parties accept the findings and recommendations contained in the report and these are then implemented, the complaint will be closed and recorded as resolved. If either party does not accept the Investigator's report, the complaint is referred to the SLCC Members for a determination or final decision.

### 4 Determination

Members will make a decision whether to uphold the complaint and, if so, how it should be settled. Members make their decisions in Determination Committees where there is always a majority of lay or non-legal Members. Their decision is final and if either party disagrees with it, they can appeal to the Court.

The SLCC will always check that an agreement or decision is implemented and we will take action if not.

#### WHAT THE SLCC CAN DECIDE

The SLCC has the power to award up to £20,000 for any loss, inconvenience or distress resulting from an inadequate professional service. We can also order the relevant practitioner to reduce fees, re-do work and rectify any mistakes at their own expense. If we feel the practitioner has shown a lack of

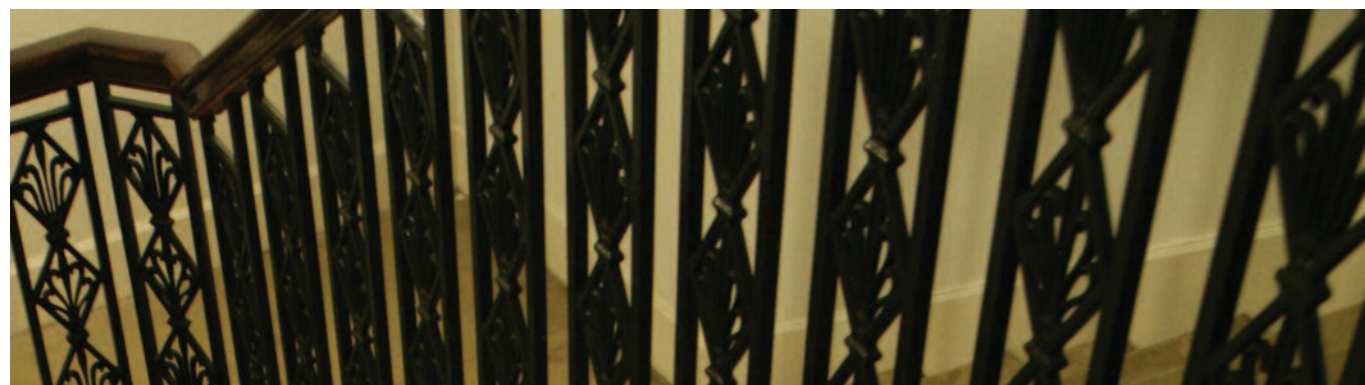
competence relating to any area of the law or legal practice, we can report the matter to the relevant professional body.

#### WHAT WE CANNOT INVESTIGATE

The SLCC cannot investigate complaints relating to the conduct of legal practitioners. Any complaints it receives and decides are about conduct will be passed to the Law Society of Scotland, the Faculty of Advocates or Association of Commercial Attorneys (the Professional Bodies).

Conduct complaints about Conveyancing and Executry Practitioners are passed to the Law Society of Scotland as they are responsible for their regulation under the Public Appointments and Public Bodies (Scotland) Act 2003.

The SLCC has the power to oversee how these complaints are dealt with.



## Enquiries and complaints – our first nine months of business

Our role is to act as the 'gateway' for complaints about the legal profession and to investigate complaints about the service provided by legal practitioners. We also investigate complaints about the way the Law Society of Scotland, Faculty of Advocates and Association of Commercial Attorneys investigate complaints about conduct.

Many people who come to us have a complaint they want investigated;

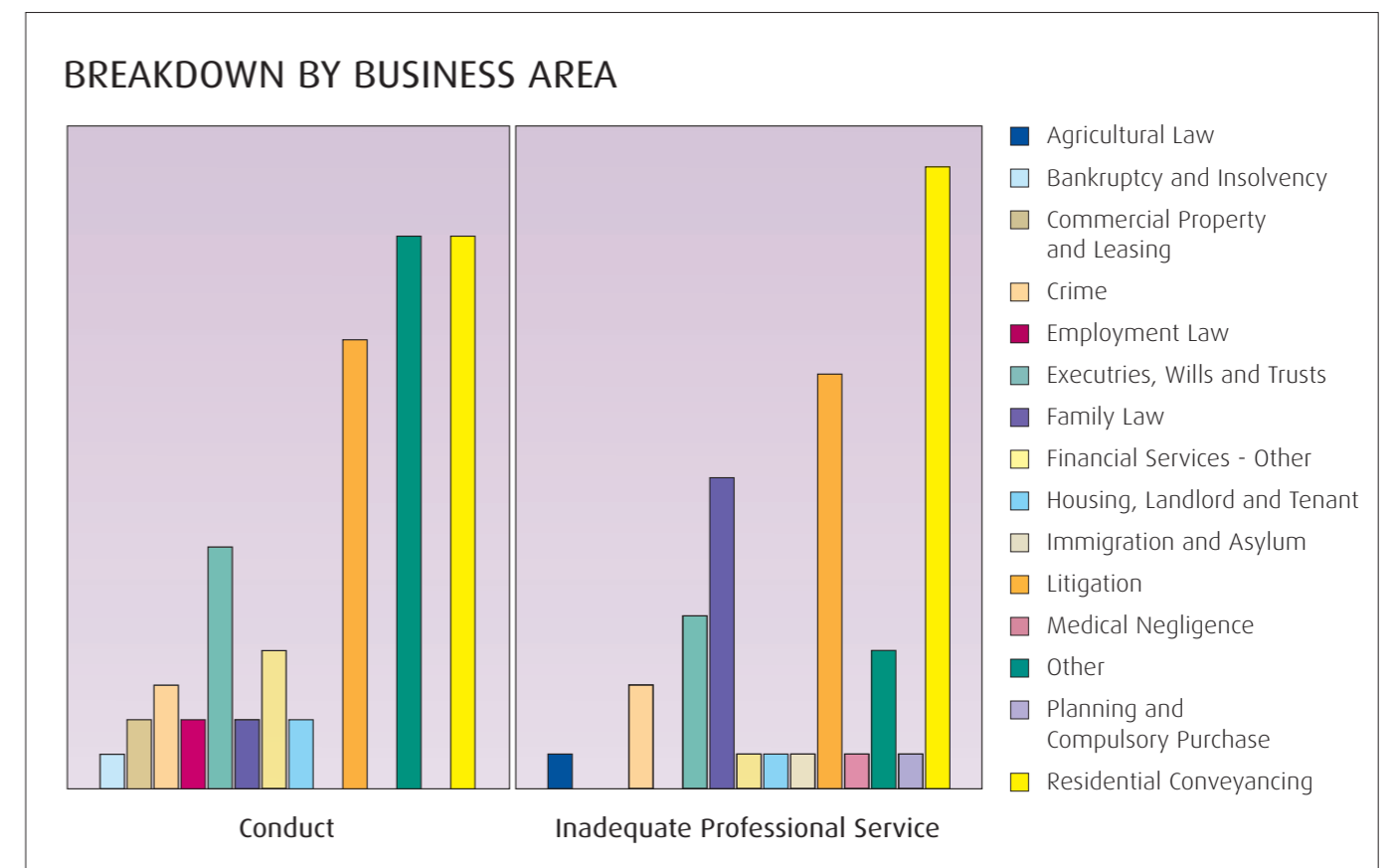
however, are simply seeking information or help and advice on how to make a complaint about their solicitor or advocate.

Over the nine months since we opened, we have put a huge amount of work into putting in place procedures and policies for dealing with enquiries and addressing complaints. Our process follows four stages: eligibility, mediation, investigation and determination.

As you can see from the following summary, we have had plenty of enquiries but of these only a fraction have fallen to the SLCC to deal with as complaints under the 2007 Act. As at June 2009, none have reached the determination stage.

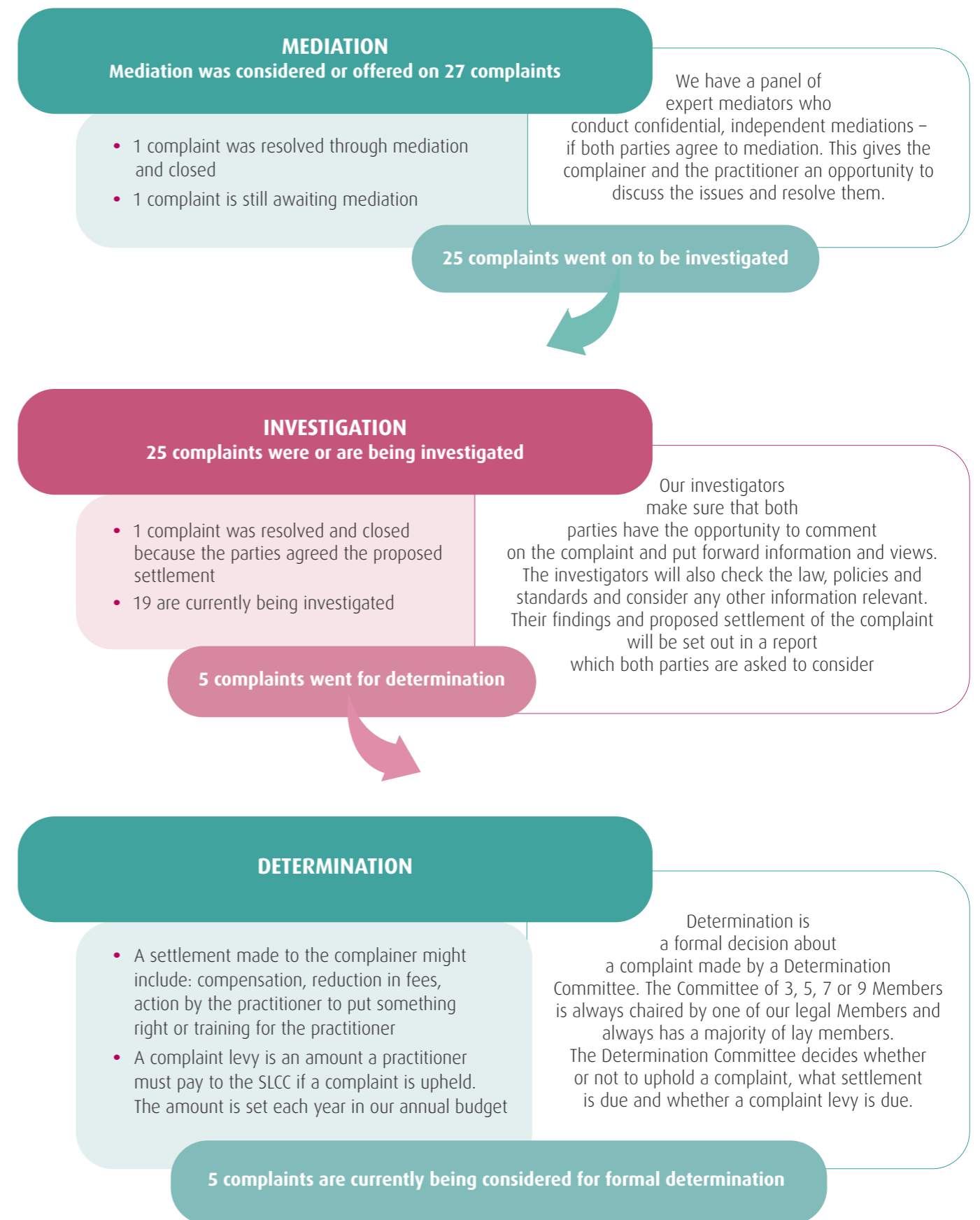
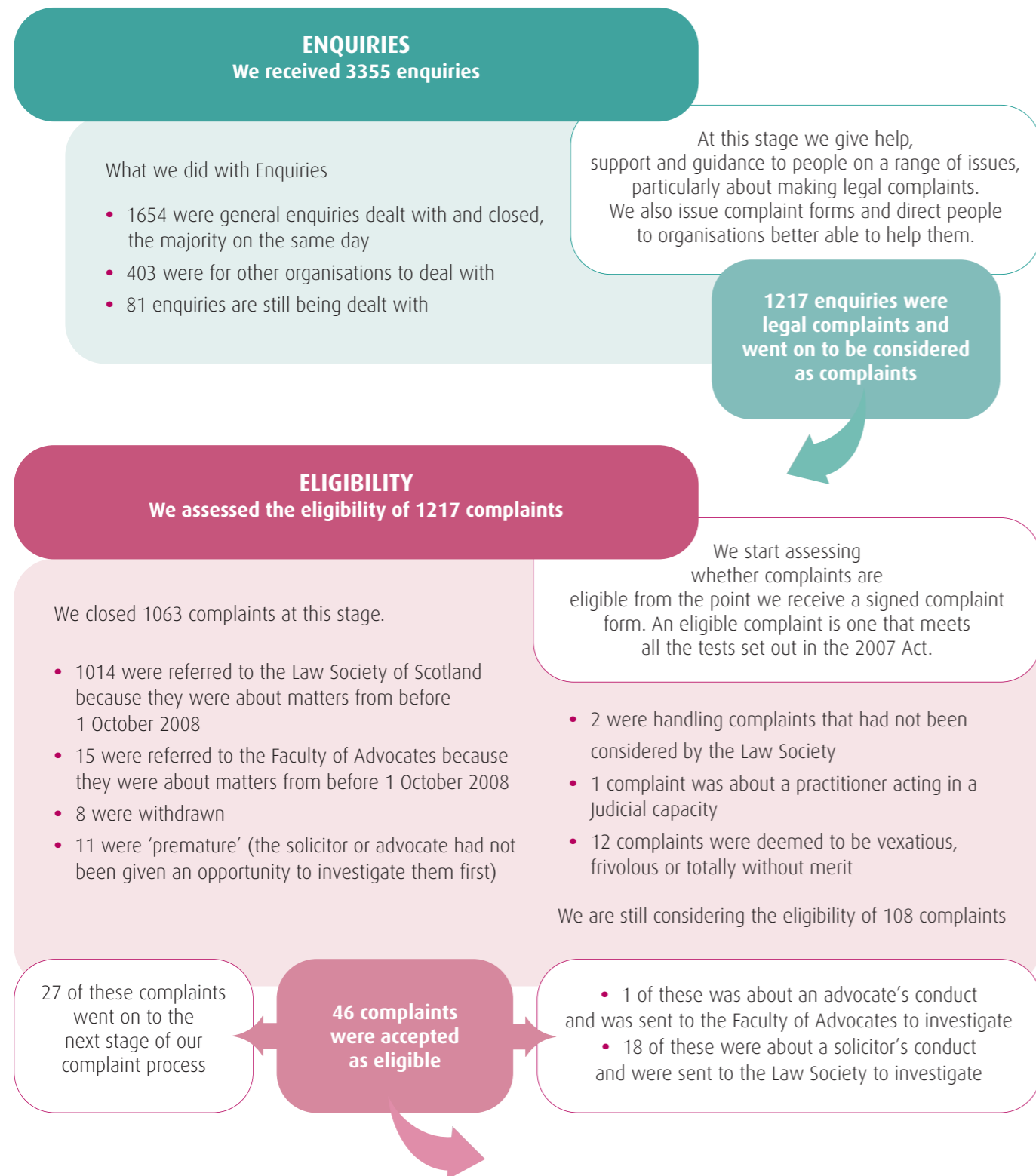
The majority of enquiries and complaints are from Scotland, with a few coming from England and other parts of the world.

Complaints cover a range of business areas, but as you can see, the majority concern residential conveyancing.





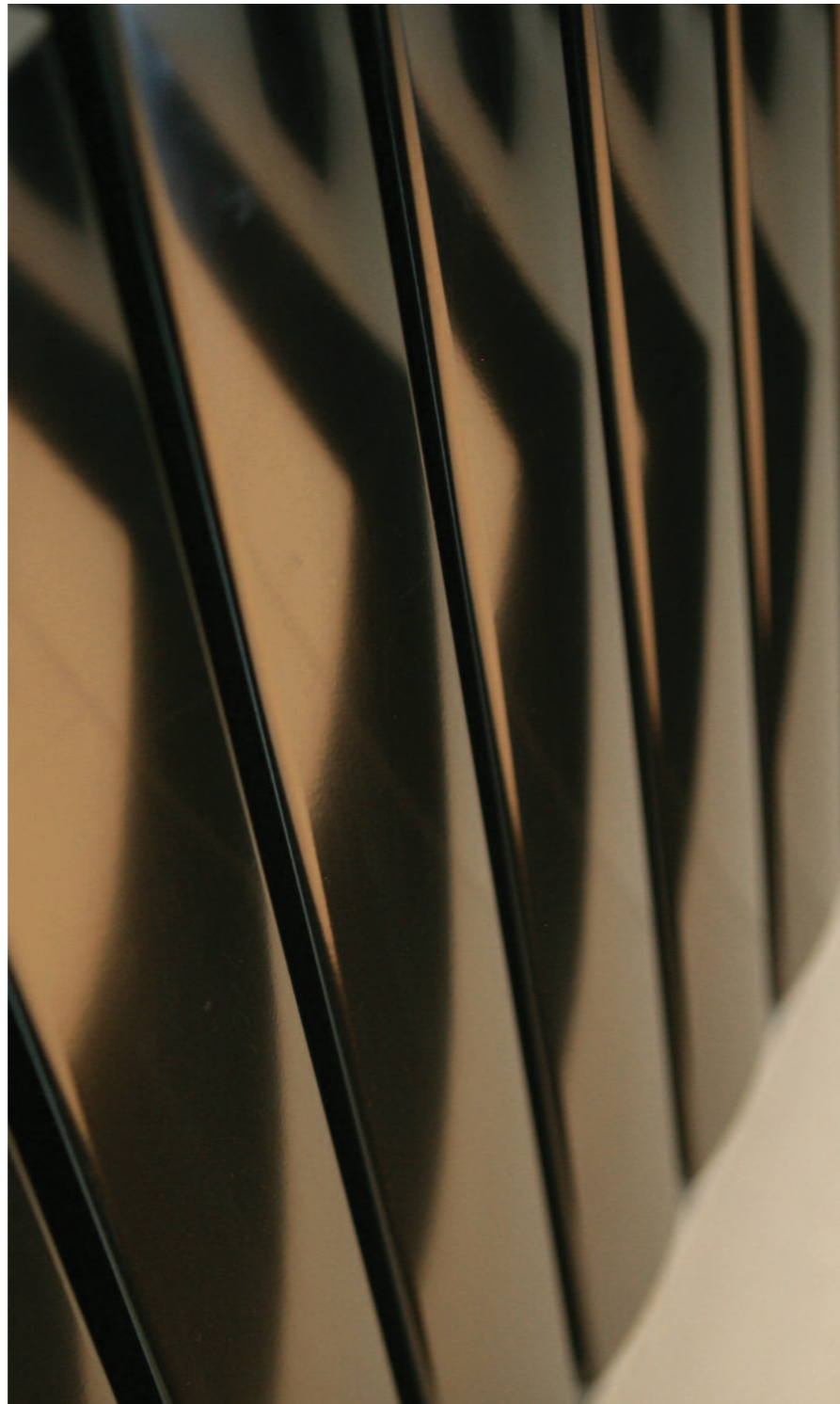
# The Complaints Procedure



## Working with old and new legislation

“The former SLSO staff members continue to work on cases considered under the transitional powers. They have achieved so much in a very short time having endured moving to a new building with all that entails. They established their new office very quickly and have continued to work extremely hard to maintain high standards”

Jane Irvine,  
SLCC Chair and former Scottish  
Legal Services Ombudsman



The SLCC superseded the Scottish Legal Services Ombudsman, or SLSO, when we opened for business on 1st October 2008. The legislation which gives the SLCC its powers is the Legal Profession and Legal Aid (Scotland) Act 2007. Complaints coming to the SLCC, where the client first instructed their legal practitioner on or after 1st October 2008 will be considered under the terms of this Act.

### BUT WHAT IF A COMPLAINT RELATES TO INSTRUCTIONS GIVEN BEFORE OCTOBER 1ST 2008?

These cases still come to the SLCC

but are considered under different legislation which gives us powers similar to those used by the former SLSO. The legislation is the Legal Profession and Legal Aid (Scotland) Act 2007 (Transitional, Savings and Consequential Provisions Order 2008).

### HOW ARE THESE COMPLAINTS DEALT WITH?

The complaint is sent to the appropriate professional body for consideration and if a satisfactory resolution is not reached, the SLCC can still consider how the professional body handled the

complaint, but we are unable to investigate the actual complaint.

### WORKING WITH OTHERS

Previously, the SLSO had a reciprocal agreement with the Legal Services Ombudsman for England and Wales and the Bar Council. This meant that if any of the organisations received a complaint where there was a conflict of interest, the complaint would be investigated by one of the other bodies. The SLCC has sustained this agreement for continuing SLSO complaints and continues to receive complaints from the other bodies.

### Cases handled under SLSO powers from 1st October 2008 until 30th June 2009:

Number of complaints received	203
Number of complaints accepted for investigation	180
Number of complaints accepted on behalf of LSO (England & Wales)	14
Number of complaints accepted for the Bar Council	0
Number of complaints accepted for Northern Ireland	0
Total number of Opinions completed (incl LSO)	160
Number of LSO Opinions completed (Note: Only as incl above)	13
Number of Northern Ireland Opinions completed (Note: Only as incl above)	0
Number of Bar Council Opinions completed (Note: Only as incl above)	1
Number of Opinions still to be completed at 30th June 2009	43
Number of complaints upheld	61
Number of complaints where Professional Bodies refused recommendations	2
Number of complaints where SLCC published notice	0

## Developing our Oversight role

“When the SLCC opened for business one of our key objectives was to fully understand the function and purpose of the Master Policy and Guarantee Fund. We also needed to understand the experiences of individuals who had made a claim and commissioning the research was a positive first step towards the SLCC exercising its oversight role”

Jane Irvine  
Chair of the Scottish Legal  
Complaints Commission

The SLCC has a number of roles in relation to oversight.

### COMPLAINTS OVERSIGHT

We must monitor the way in which the Professional Bodies investigate complaints about practitioners' conduct. This includes looking at their complaints processes and individual complaints (we do not look again at the original complaint; just the way in which the professional body investigates it). As part of this oversight role, we also monitor and in future years will report on trends and good practice.

The SLCC also has a role in raising general complaint handling standards in the legal profession. To do this, we have the powers to issue guidance on good complaint handling practice and would seek to share the good practice we identify during our own investigations.

### THE MASTER POLICY AND GUARANTEE FUND

The SLCC has the authority to oversee and monitor the Master Policy and Guarantee Fund under the Legal Profession and Legal Aid (Scotland) Act 2007.

The Master Policy is the compulsory Professional Indemnity Insurance which covers all Scottish solicitors working in private practice. Claims are handled by the Master Policy Insurers and the insurance provides cover of up to £2 million for any one claim.

The Scottish Solicitors' Guarantee Fund protects those who have lost money because of the dishonesty of a solicitor or a member of their staff. It is a fund of last resort, which means it can only compensate those who have exhausted all other options, such as suing the solicitor for professional negligence. Payments are discretionary and all legal firms in Scotland contribute annually to the fund.

In February 2008, following a comprehensive tendering process, the SLCC appointed Professor Frank Stephens and Dr Angela Melville of Manchester University School of Law to undertake research into the purpose and function of the Master Policy and Guarantee Fund. The research project involved carrying out a literature review, interviewing people who had experienced making a claim against the Master Policy and Guarantee Fund, and obtaining information from the Law Society of Scotland and their insurance broker who administers the Policy and Fund.

The project started in March and was completed in May. The final report was approved by the Board in June and published on the SLCC website.

## Talking to others

“The SLCC was set up by the Scottish Government to establish a modern, transparent, independent complaints resolution service. This is a different approach and we are in regular contact with our stakeholders as a way of measuring our progress”

Jane Irvine  
Chair of the Scottish Legal  
Complaints Commission

As an organisation that is independent, impartial and accessible the SLCC is committed to working with its stakeholders. We are in regular contact with our stakeholder groups and are working to develop strong working relationships with others.

Stakeholder groups we currently work with include:

Consumer groups

Advocacy groups

The legal profession

Scottish Government Ministers...

... and of course, all individuals to whom we provide a service.



## Consulting with others

**“We are conscious that the money that funds the SLCC comes from the private sector and our budget consultation is important to illustrate how we intend to run a transparent, accountable and efficient organisation”**

Eileen Masterman  
Chief Executive of the Scottish  
Legal Complaints Commission

Our funding comes from the legal profession in Scotland and we are not funded by the public. We set our own budget and this is by way of a levy paid by legal practitioners. A legal practitioner is someone who has qualified as:

- A solicitor
- An advocate
- A conveyancing and executry practitioner
- A commercial attorney.

The levies are collected by the Law Society of Scotland, the Faculty of Advocates and the Association of Commercial Attorneys. The levy for Conveyancing & Executry Practitioners is collected by the Law Society of Scotland.

In January of each year, we consult on our budget proposals with the relevant professional bodies and when the budget is finalised, it is laid before the Scottish Parliament.



## Helping others

**“As a new organisation with a completely new team of people, raising money for CHAS has helped us to get to know one another. The charity provides opportunities for families to share concerns and worries with people who understand. The SLCC staff are proud that our fundraising efforts have helped to make such good things happens”**

Eileen Masterman  
Chief Executive of the Scottish  
Legal Complaints Commission

In February 2009, the SLCC staff discussed working together to help a Scottish charity. Staff nominated their favourite organisation and a vote took place. The Children's Hospice Association Scotland or CHAS was the clear winner.

CHAS was established to provide hospice services in Scotland for children and young people with life-limiting conditions. The charity needs to raise annual running costs of over £5 million to run the Rachel House and Robin House hospices and the CHAS Home Service.

As a new team, the SLCC staff enjoyed raising funds as well as getting to know each other. Our first

fundraising event was to sign up to the REAL Radio - Bring a £1 to Work Day and this was followed by dress-down days and a quiz night. Staff produced an excellent buffet for the quiz night, and decided to use the leftover goodies to create an Easter hamper. Extra items were added and raffle tickets then sold to the staff.

At the end of June, four members of staff took part in a 5k sponsored run for CHAS. They were sponsored by colleagues, family and friends and raised over £300.

Between February and June 2009, SLCC staff raised £494 for CHAS.



**Children's Hospice Association Scotland**

Sharing the Caring

## With the environment in mind

### WE SAVE RESOURCES WHEREVER WE CAN.



#### We recycle:

- Paper
- Metal
- Plastic



#### We use:



- Fairtrade tea, coffee and sugar.

#### We save resources:



- by switching off computers at the end of the working day
- lights automatically switch off when an area is empty



#### We encourage Members and staff to travel to work or meetings by:



- public transport;
- walking or
- cycling.



We endeavour to use local companies and services to minimise our carbon footprint.



## Our operational costs

### 1 October 2008 until 30 June 2009 (9 months)

The SLCC's fully audited accounts are available on our website: [www.scottishlegalcomplaints.org.uk](http://www.scottishlegalcomplaints.org.uk) or on request. They have been signed-off unqualified by both our internal auditors and the Auditor General for Scotland. The key financial messages emerging from the accounts echo the messages in other parts of our Annual Report; that the first part-year of operations was unpredictable and that complaint numbers were lower than anticipated.

Operating Costs for the Period Ended 30 June 2009 - £'000	
Total Income	3,119
<b>Expenditure</b>	
Staff Costs	851
Other Operating Costs	703
<b>Total Expenditure</b>	<b>1,554</b>
Reserves Held	1,565

As the figures show, the SLCC spent less than we received in income by just over 50% and our approach to holding and using the reserve funding from our partial first year, will be reflected in future budgets.

The SLCC started the year with an income of £3.119M. Just under 84% of our income came from the levy imposed on legal practitioners, the remainder coming from interest earned and from the Scottish Government by way of start-up funds.

The amount of income was calculated during the set-up of the SLCC, using estimated complaint numbers based on historical data and the organisational structure, fixed overheads and staffing levels it was believed were needed to deal with them effectively.

The largest underspend occurred in staff costs. During the first nine months of operation the SLCC had the equivalent of 27 full time staff, including the CEO. This is less than was originally planned for. The reality is that complaint numbers were significantly lower than the estimated levels and the anticipated supporting organisational structure and staffing levels were not put in place as a result. The true impact of the transitional arrangements was also not fully reflected as the income levels were set before these had been finalised.

While there has most likely been some impact on complaint numbers because of the economic environment, and in particular the impact on the number of complaints about conveyancing, what is not so apparent is whether there are other drivers causing a downward trend. This early in its life the SLCC does not have the data to answer this question, but as part of its oversight function will monitor complaint levels and look to identify trends.

The other major impact has been the effect of the transitional arrangements. As the earlier section on complaint handling shows, 1217 legal complaints were processed by

the SLCC's Gateway Team but few of these were investigated by us. Because of the transitional arrangements complaints about inadequate professional service instructed prior to 1 October 2008 were still being sent to the Professional Bodies for investigation, rather than being investigated by the SLCC under our new powers. The SLCC is watching this closely as we believe that by the end of the next operating year, the proportion of complaints covered by the transitional arrangements will have fallen significantly and the number of complaints investigated by the SLCC will have risen.

#### Excerpt from the external auditor's report:

"We are able to conclude that the Commission's financial statements give a true and fair view of the financial position for the period from 1 October 2008 until 30 June 2009 and that, in all material respects, the expenditure and receipts shown in the accounts were incurred or applied in accordance with applicable enactments and relevant guidance.

We confirm that information which comprises the management commentary, included with the Annual Report, is consistent with the financial statements."

Grant Thornton

The SLCC accounts were finalised and signed off by the Acting Chief Executive, Rosemary Agnew, who has also taken on the responsibilities of Accounting Officer during the Chief Executive's absence due to illness.

## And in our next year

### In our next year, we shall:

- Promote the early resolution of complaints ensuring all lessons are learned from them and the quality of legal services in Scotland is enhanced.
- Encourage excellence in conduct complaint handling procedures adopted by regulatory bodies responsible for legal service providers.
- Develop and launch a new website to provide information about the SLCC for both complainers and legal practitioners.
- Continue to research professional indemnity arrangements to ensure those adopted by the legal profession are fit for purpose.
- Persistently look outwards, liaising with stakeholders to ensure the SLCC evolves to match user demands.
- Develop our Board and staff, challenging ourselves to learn and improve as we encourage others to do the same.



## Contacting the SLCC

As a new organisation we want to hear from you and welcome calls, emails, faxes or letters.

Contact us if you require information on how to make or respond to a complaint or if you would like to comment on the service you have received or if you have suggestions on how we can improve our service.

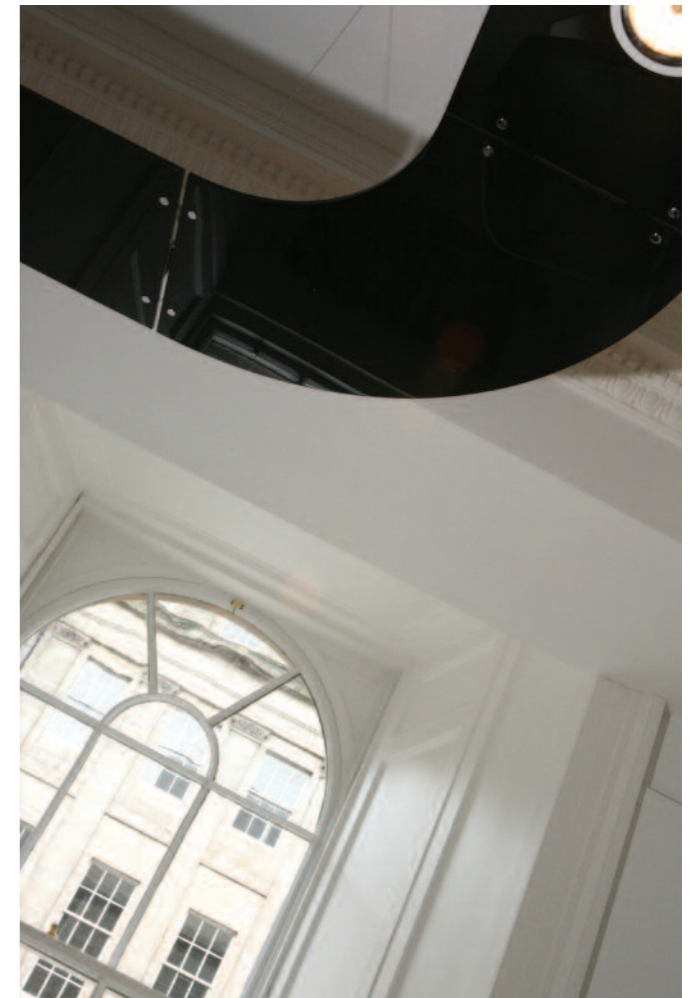
The SLCC is open from 9am until 5pm, Monday to Friday, apart from Tuesday when we close for staff training and open at 10am.


The Scottish Legal Complaints Commission  
The Stamp Office  
10 – 14 Waterloo Place  
Edinburgh  
EH1 3EG

Tel: 0131-528 5111  
Fax: 0131-528 5110

Email: [enquiries@scottishlegalcomplaints.org.uk](mailto:enquiries@scottishlegalcomplaints.org.uk)

For more information, see our website:  
[www.scottishlegalcomplaints.org.uk](http://www.scottishlegalcomplaints.org.uk)





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