

Building on...

- Improved performance: increasing quality and maintaining pace
- A 'new norm' of complaint volumes and complexity
- A culture of change and innovation
- An agile response to an uncertain operating environment

Our operating plan and budget for July 2020 - June 2021

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1 Executive Summary

- 1.1 This document sets out the SLCC's budget for 2020 -2021, proposed within the context of a strategy and operating plan which are published separately but summarised in this document.
- 1.2 **A consultation ran from 30 January 2020 to 19 March 2020.** Responses were published on our website on 31 March 2020. The consultation dates and process are set in statute.
- 1.3 **Last year we delivered significant improvements in our work,** completing more cases, and completing them faster, than in any previous year. However, those improvements sit in the context of a rising number of complaints and increasing complaint complexity. There is also significant uncertainty at a national level around Brexit and 'IndyRef2', and the plans for change to the regulatory model for the sector, all of which affect our ability to predict what work in future years will look like. Finally, despite the demands of rising complaints we need to ensure we effectively deliver our full range of statutory duties.
- 1.4 **At the very end of the consultation period the full impact of coronavirus started to emerge:**
- a. **We recognise the profession are facing unprecedented challenges with offices being closed, and court cases and conveyancing transactions stalling.** We know many firms and individual lawyers are facing reductions in income, uncertainty, and new working arrangements, like many others across the country. It is important for society at large that access to legal services is maintained during through the coronavirus epidemic and in the subsequent period, when the long term economic picture is likely to remain unclear.
 - b. **As an organisation we swiftly implemented our business continuity plan and immediately we were running at around 80% of business as usual in terms of our statutory functions.** Gaps, including telephony cover and access to ongoing incoming physical mail from the public are now being filled. Complaints have continued to come in at a rate just marginally lower than the normal trend. Parties continue to want swift decisions – for both lawyers and complainers a complaints process can be stressful. Case decisions and committees continue to function, and mediations have moved online. We know the restoration of all civil justice mechanisms has been a priority for the profession, and we have delivered our small part of that.
 - c. **We are now operating at around 95% of business as usual, and are working on solutions for the remaining gaps.** We issued immediate guidance to the sector to support firms and manage expectations of the public, and aimed at ensuring complaints do not increase generating additional cost for the sector. Our duty to the sector and the public is to ensure these are processed as required by statute.
 - d. **We are reviewing the situation weekly and are exploring options to reduce our costs, flexibility in the payment of the levy to the SLCC by the RPOs, and are proposing a more flexible plan for our own work for the coming year, to deal with the uncertainty and allow us to adjust plans as more is known about the economic impact.** We are also keeping under review all options for support (such as furloughing) but are in a different position to many organisations in that work is continuing to come in, our business continuity planning is allowing us

to deliver almost as normal, and what we must deliver is prescribed by law. We review all spending and consider complaints volumes and projections again formally at the six month point within our budget cycle, and publish the outcomes as part of the statutory consultation process on the levy.

- 1.5 **This budget is aimed at delivering the first year of work under the new strategy**, based on an ongoing incremental approach to change over the four years.
- 1.6 **Our core operational work next year** will include helping over 3,000 people resolve over 1,500 complaints, dealing with 72 Data Subject Access Requests, 31 Freedom of Information requests, 10 handling complaints, and 27 Inner House of the Court of Session actions (more than one case every ten business days) when a party challenges one of our decisions and we have to respond. 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.
- 1.7 **An overall budget increase of 3.5% is proposed. For the coming year this means a levy increase of £4.00 for in-house lawyers and commercial attorneys, £6.00 for advocates, £14.00 for the year for employed solicitors and an increase of £17.00 for principals and partners in private practice.**
- 1.8 Any increase is always unwelcome, but the number of complaints has continued to rise and many drivers of cost have been above CPI (including court fees, appeals costs, and the Scottish Government pay deal). **Section 3** sets out the further work we have planned in order to improve the efficiency of complaint handling. **Section 4** sets out more detail on the drivers of cost and **Section 5** sets out the financial efficiencies we achieve each year. **Appendix 1** contains the full budget.
- 1.9 **We continue to focus on three strands of work to improve efficiency** – internal change within our control, medium term change working with the Scottish Government and professional bodies, and promoting long term change as recommended by the recent independent review of the regulation of legal services in Scotland.
- 1.10 The abbreviations and technical terms we use are explained in a glossary at **Appendix 2**.

2 Summary of our strategy – 2020 to 2024

- 2.1 While the current circumstances make long-term planning more difficult than ever, as a public body we are required to set our annual budget and operating plan within longer term planning. This sets broad aims, but these can be adapted as the situation develops around coronavirus.
- 2.2 Our ability to adapt has been shown by our process improvement work over the last two years. Our annual report last year indicated the results this was delivering. We particularly flagged our move to ‘remote’ determinations, held online. This has proven far-sighted, and demonstrated our ability to respond to different environments with new solutions.
- 2.3 Our vision is that **‘every client receives a professional service, and every lawyer adheres to professional standards’**.
- 2.4 Our mission is to **resolve complaints, prevent the common causes of complaints, and enable quality improvement**.
- 2.5 **We have four strategic aims** to achieve our ambition to be an efficient and effective complaints and improvement body, delivering a quality service. Our aims are to:

Deliver

Deliver a high-quality service which is approachable, people-centric, prompt, and proportionate, and which delivers fair resolutions.

Innovate

Innovate by working as a performance-focused, change-confident and resilient team, delivering our work in new and efficient ways.

Prevent

Prevent the common causes of complaints through analysis, shared learning and improvement work.

Influence

Influence the debate on reform, and lead the change as soon as final proposals are in place.

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

Users

Good customer experience is at the heart of how we design and deliver services, and feedback drives our improvement work.

Improvement

Our people, processes, and outcomes demonstrate a commitment to, and delivery of, continuous quality improvement and best value.

Digital

Our thinking will focus on digital solutions, paperless processes and ‘social’ engagement, whilst ensuring access for all.

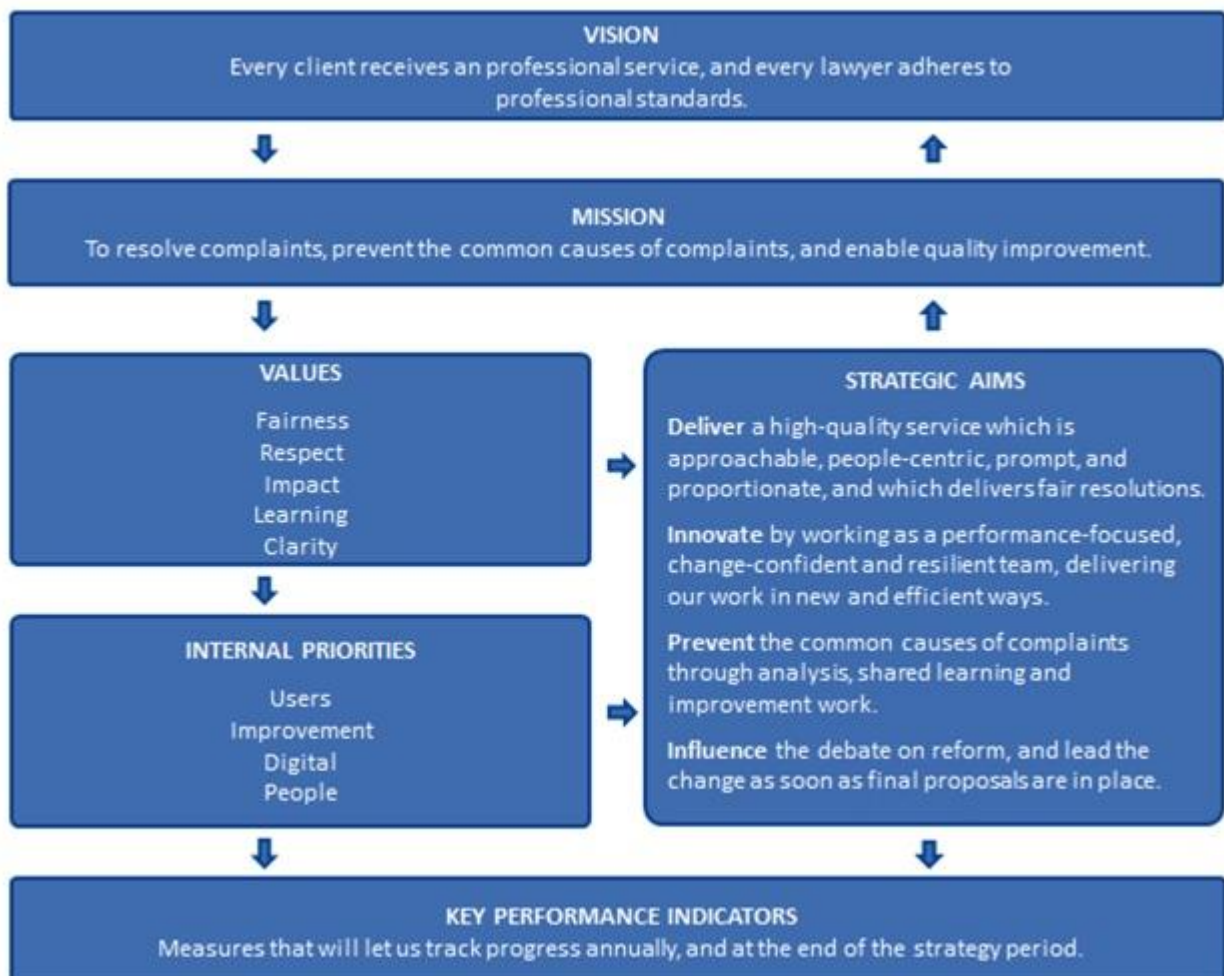
People

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.

2.7 Our values are:

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

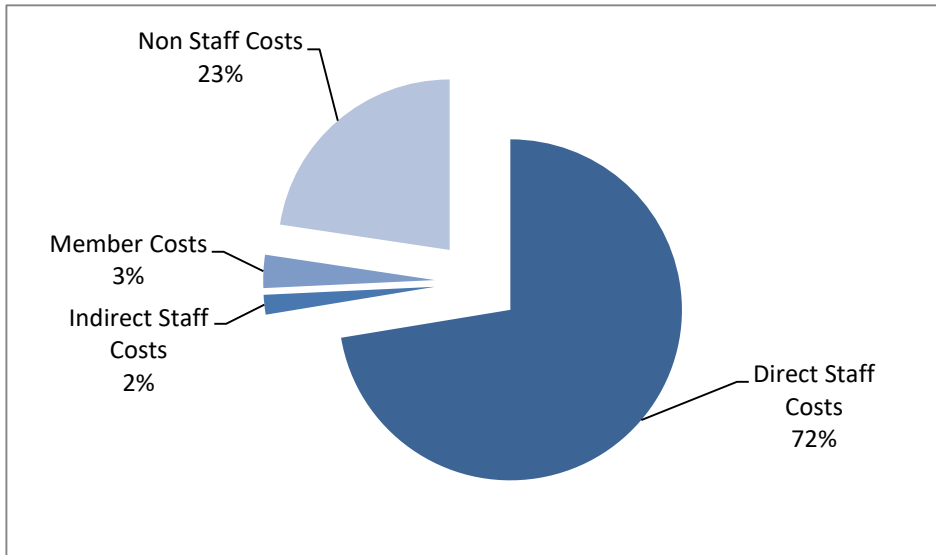
2.8 How these elements work together:



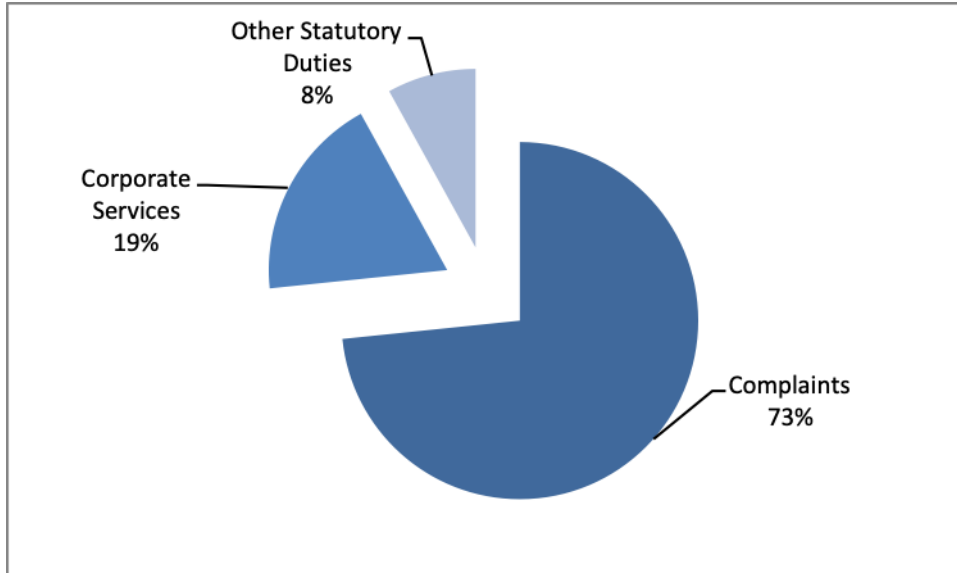
3 Our operational delivery for 2020 - 2021

Introduction

3.1 The majority of our costs relate to our people:



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



3.3 We are keeping staffing under continual review in light of the current coronavirus situation, and have not replaced or backfilled posts that have arisen since events started to unfold in the UK. However, we also have a defined statutory process to run, and complaints are continuing to come in at similar volumes. Even during weeks of full lockdown we have continued to receive both online and postal complaints. Now we are resuming telephone support, which our data shows is often the first point of contact before submitting a complaint, we believe more complaints may come in. In contrast to many organisations, therefore, we have no lack of work and therefore do not meet the requirements of furlough. Further, the UK government has issued advice that furlough is not generally for public bodies, and not where there is still work to be done which is ‘essential’ for that organisation. For the SLCC, essential work

includes most of the work which the Act states we must carry out, and which we are currently able to deliver while complying with government advice.

Complaints about lawyers – anticipated volumes

- 3.4 Our frontline complaints service is where the majority of our staffing and resources is directed. Our performance is monitored by a non-executive Board appointed by Scottish Ministers.
- 3.5 How we deal with legal complaints is shaped by several factors. This includes the number and complexity of incoming complaints, how these complaints are categorised, and whether they progress past 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.
- 3.6 Information about our complaints processes is available on our website at <https://www.scottishlegalcomplaints.org.uk/your-complaint/>
- 3.7 Information on our 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/>
- 3.8 Our anticipated caseloads are:

Complaints about lawyers	2018-2019	2019-2020	2020-2021
	Actual	Forecast	Forecast
Complaints incoming and requiring a formal prematurity and / or eligibility decision	1,326	1,392	1,462
Of those eligibility decisions, 'FVTWM' and 'Time bar' are reserved to Commissioners:	261	274	288
Full service mediations will be required on the following:	80	84	88
Full service investigations will be required on the following:	341	358	376
Case not resolved at eligibility, mediation or investigation and requiring a panel of three commissioners to make the final determination.	138	145	152

- 3.9 Forecasting the future is never fully 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.
- 3.10 These estimates were made before the coronavirus reached the UK and the lockdown was implemented. We recognise complaints may go down, as transactions drop and people are confined to their homes. Equally, complaints may go up, if clients experience issues with transactions during the coronavirus. As of April 2020, there is no reliable data set to make an

alternative projection. The only assessment viable at this point is that the position is unpredictable for the next 14 months (until the end of the financial year this budget covers).

- 3.11 Despite our anticipation of increased workload we have frozen the number of staff, and fixed the costs of other directly case-related expenses (other than for Court of Session appeals, where we have to expend resource).
- 3.12 This means a significant performance challenge for the business is set, in terms of anticipating having to deal with up to 5% more work in the year whilst maintaining the same level of complaints handling staff.

Complaints about lawyers - KPIs

- 3.13 Before the start of the business year 2020 - 2021 the Board of the SLCC will set specific targets, based on:
- the latest performance data available
 - the anticipated incoming complaints for the year ahead
 - the improvement in performance the organisation wishes to see.
- 3.14 KPIs will be set, and then monitored 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
 - 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

- 3.15 We are also responsible for investigating 'handling complaints' which look at how the Relevant Professional Organisations (RPOs) deal with complaints about 'conduct'. We received a peak of incoming complaints last year (with several linked to the same original complaint). When consulting on the budget in January 2020 we expected this year and next year to be more typical, and so far this has been borne out this year. However, in recent months we have started to see a higher volume of enquiries about making a handling complaint about an ongoing investigation, particularly where parties feel there is an unacceptable delay in the RPO dealing with their complaint. We have amended our forecast accordingly (see table below), although not changed our budget in this area.

- 3.16 We also have a significant caseload assisting people with Data Subject Access Requests and Freedom of Information requests. These requests tend to be in proportion to the number of complaints we receive. The tight statutory turnaround times, and potential for significant fines, means this work must always be fully resourced.
- 3.17 Finally, we have seen appeals increase in line with complaints, and these are a significant driver of resource and cost. In recent months, appeals have dropped slightly. We are not yet adjusting projections, but this may lead to a saving within the year if it is a new trend, rather than simply a quarterly fluctuation.

Other case types	2018-2019 Actual	2019-2020 Forecast	2020-2021 Forecast
Handling complaints	13	6	10 (was 8 – see para 3.15)
Freedom of Information Requests	27	29	31
Data Subject Access Requests	63	67	72
Appeals	20	25	27

- 3.18 As with our main case projections, above, we do not have data at the time of publication which lets us estimate how the pattern of other case related activity may be affected by the coronavirus.

Other case related activity - KPIs

- 3.19 Handling complaints – we aim to respond in 14-21 days with a decision on whether the handling complaint is eligible, and undertake the investigation in 4-8 months, depending on the complexity of the case.
- 3.20 Freedom of Information Requests – statutory duty to respond to all cases within 20 working days.
- 3.21 Data Subject Access Request – statutory duty to respond to cases within 1 month (with an extension available on complex cases of 3 months).
- 3.22 Appeals – less than 2.5% of appealable decisions are appealed.

Our operating plan – including our other statutory duties

- 3.23 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

- 3.24 The remainder of our planned operating activity either:
- services these additional statutory duties; or
 - supports or enhances our complaints functions.
- 3.25 We have set our planned work for 2020 - 2021 against the internal priorities (para 2.6) we believe will deliver our strategic aims.

Ongoing flexibility to tackle the challenges around coronavirus

- 3.26 The executive summary at the start of this document notes the action we have already taken to swiftly move to a new way of working and ensure our services continue to be delivered. Our immediate action to review this budget and operating plan will evolve into regular review by the management team and Board of the impact of coronavirus and the lockdown on the sector, users of legal services and our functions and costs.
- 3.27 If there is a significant fall in complaints, there are a number of adjustments which can be made to save costs – this would include not replacing departing staff, the associated reduction in software licenses, and a potential decrease in appeals and legal costs (as typically appeals are a relatively constant percentage of overall work). This would lead to an additional return to reserves at the end of the year, which could be taken into account when setting the budget and levies for the following year, if our adjusted predictions, with the benefit of more data, forecast a continued reduction in incoming complaints.
- 3.28 If complaints increase above the anticipated increase based on the general trend, some other regulatory activities or projects could be deferred to a future year. Alternatively, the SLCC has access to a small amount of reserves, or any above-anticipated increase could be taken into account when setting the budget and levies for the following year.
- 3.29 Some projects are dependent on social distancing ending, or working with other groups and organisations whose priorities and resources may change due to coronavirus. The Board may need to consider delaying these.
- 3.30 We are reviewing options to reduce costs, and will keep these under review. For example, we are looking at not paying or reclaiming lease expenses, service charges, or rates. However, most of the support schemes are aimed at the private sector, and not public sector bodies, and we have not yet identified where we can meet the criteria for any of these.

Detailed operating plan

- 3.31 Our detailed operating plan is published separately. However, this section summarises the main work to provide context to the budget.
- 3.32 Projects marked with an asterisk are ones that, in light of the change of circumstances since the consultation in relation to coronavirus, may need to be postponed to the following years if complaints increase more than expected, or revenue or project engagement from partners is affected.

Users

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

- improve the accessibility of language and layout in correspondence for a diverse range of audiences
- improve our general levels of customer service
- create a new feedback system for complainers and practitioners *
- host a meeting of Client Relations Managers to identify how to improve our preventative work
- work with consumer bodies to identify when consumers may need additional information from us to know how our service can help. *

Improvement

3.34 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
- Publish a policy on how we will 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).
- Consult on and finalise a plan for use of our 'oversight' powers in the coming four years
- Continue to deliver an outreach and CPD programme *
- Continue to promote reform of the complaints process and legal regulation based on our *#ReimagineRegulation* proposals
- Review our publication of quarterly performance data and Board papers *
- Meet our legal bio-diversity duties, and support Climate Change Week
- Continue to work to implement the Legal Services (Scotland) Act 2010 when the first body becomes both approved and authorised under that Act.

Digital

3.35 This strand of work already anticipated the need for a move to a fully digital, paperless and remote offering (whilst still ensuring access and preventing digital exclusion). The experience of coronavirus only underscores further why this is a priority area of work.

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

- Make the push to fully 'paperless' working for our internal process for complaints
- Approve new statutory rules to support the move to a fully paperless service, including external interactions with the profession and access to client files.
- Move to greater online training, and support to help reduce the common causes of complaints and share learning *
- Track developments in AI which might improve our efficiency or effectiveness *
- Ensure this work does not create any 'digital exclusion' for those without access to IT.

People

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

- Further work on flexible working for staff
- Working with PCS on a pay deal
- Review our appraisal system, and role descriptions *
- Identify new pools of talent for recruitment *
- Finalise our succession and workforce plans
- Training and development on digital, change, innovation and wellbeing
- The recruitment, working with the Public Appointments Team, of new Board members (as terms of office come to an end).

Consumer Panel

3.38 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.

3.39 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.

3.40 The Consumer Panel consulted on their priorities:

- Influence Scottish Government on reform of regulation and complaints
- Assist the SLCC with its review of templates and correspondence (for clarity and accessibility)
- Run a 'Service Design' workshop with legal service users on their expectations of good service and complaints
- Respond further on the Consumer Scotland Bill and build a relationship with Consumer Scotland

3.41 The Consumer Panel is independent in terms of policy and decision making, so it will re-examine priorities and how they might be delivered in light of coronavirus separately to the SLCC's Board and management team. Those discussions have started.

3.42 The budget for the Consumer Panel's work is provided by the SLCC, and will reflect other decisions the SLCC makes in light of the coronavirus.

Our operating plan – including our other statutory duties - KPIs

3.43 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 on a quarterly basis.

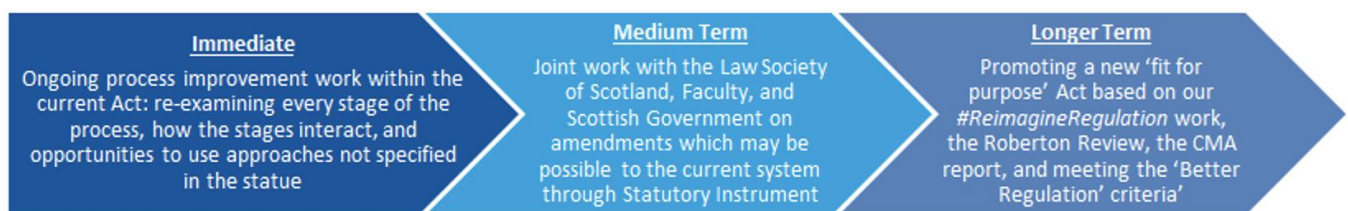
4 What increases costs in the environment we work in?

- 4.1 **Over the last three complete years, the number of complaints has consistently increased (over 30% in four years).** Each year we have made efficiency savings, but each year these have been outstripped by the increased number of incoming complaints (and the complexity of these complaints), as well as other costs.
- 4.2 **Our current prediction is that this trend will continue. In the consultation we had noted that** first two quarters of 2019/20 had shown a slightly lower number of incoming complaints than expected. Q3 was also slightly lower, but only 10 cases lower than Q3 of last year, despite lockdown. We will monitor this closely, but at the moment these figures are not enough to counterbalance the long term statistical trend.
- 4.3 As always, we would note this may be caused by increased transaction volumes and/or solicitor numbers. It may also be caused by changing consumer confidence to raise a complaint. Certainly, complaints have risen across all practice areas, and none of the data suggests any single cause. We have not seen an increase in the percentage of ineligible complaints – in many we go on to uphold the complaint and award redress. Regardless of the cause of the increase, all these complaints require to be examined.
- 4.4 **We have also seen a measurable increase in the complexity of complaints,** with the number of distinct issues per complaint increasing, and an overall increase in the amount of work needed to assess eligibility, mediate, investigate and eventually adjudicate a given complaint and the issues it encompasses.
- 4.5 **We have work planned to try to prevent the common causes of complaints,** and are pleased to see the Law Society of Scotland also formally included an action within its 2019 - 2020 operating plan in this area. However, this work is unlikely to lead to reduced complaints within the current operating year.
- 4.6 **Salaries** – each year we must award at least the minimum Scottish Government pay settlement. The 2020-2021 pay settlement is £750 to those earning less than £25,000 and 3% for those earning between £25,000 and £80,000. We must also ensure a 'Living Wage' is paid to our staff, contractors and staff within our suppliers, which is £9.30 per hour from April 2020. These factors create an inflationary pressure in excess of CPI. Scottish Government have confirmed that the coronavirus, and pressure on funding, does not change the expectation that the pay deal will be delivered.
- 4.7 **Appeal costs** – court fees have increased significantly in the Inner House of the Court of Session, and this is now having an impact. Likewise, whilst the ratio of appeals to incoming complaints remains constant, the rising number of complaints means more appeals, and even when the SLCC is successful we often bear the costs (either the court does not award costs, or these prove not to be recoverable due to the circumstances of the party). This cost increase is well in excess of CPI.
- 4.8 **Failure of solicitors to respond** – in 44% of cases in Quarters 1 and 2 of 2019 - 2020, solicitors failed to respond to us formally contacting them about a case (our current annual report notes that in the previous full year it was 42%). In 17% of cases we have had to move

to legal action. This introduces a significant administrative burden. In speaking to other sector bodies we have found no other profession so poor at responding to regulatory requirements around complaints. To tackle this we are moving to a system where a failure to respond within the initial statutory deadline will mean an automatic move to the full complaints levy and court enforcement action. In the initial years this will come at increased cost due to the court process, but the ultimate aim is to encourage better behaviours by being able to demonstrate a clear consequence for failure to respond to a statutory requirement.

4.9 **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.

4.10 Process reform at the SLCC continues at three levels:



4.11 Bold reform which would 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.

4.12 Since consultation, however, the impact of the coronavirus on this work is changing our expectations of delivery times. We now consider it less likely medium term changes will be delivered in 2021. The consultation on wider reform looks more likely to still go ahead before the summer or just after, but that may change as the situation evolves. This increases the likelihood that ‘business as usual’ for the SLCC in terms of the complaints model continues throughout this plan year.

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

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

4.14 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/>

4.15 Audit Scotland publish the outcome of their audits of our financial performance: <https://www.audit-scotland.gov.uk/report/search?search=Scottish%20Legal%20Complaints>

5 Where can efficiencies be found?

- 5.1 The SLCC is committed to finding efficiency savings each year. Where possible, these are used to offset the need for increases to the general levy.
- 5.2 **In 2015 - 2016**, we brought the payroll function in-house and developed an online human-resources (HR) system, thus reducing costs and saving valuable staff time.
- 5.3 **In 2016 - 2017**, we developed our case management and record management systems to improve efficiency, and we did not replace departing senior managers (choosing instead to reallocate duties). Other efficiency work was cancelled or delayed, as the major implications of a legal challenge by the LSS were addressed (the court ultimately ruled in the SLCC's favour).
- 5.4 **In 2017 - 2018**, we restarted the efficiency pilots we had approved in September 2016 (but that we had had to put on hold while we awaited the outcome of the legal challenges). These pilots have led to improvements in complaint handling times, but have had a less significant impact on the cost per complaint.
- 5.5 **In 2018 - 2019**, we achieved savings on office running costs, membership costs, training, staff expenses, and legal fees related to cases. We negotiated pension savings with Lothian Pension Fund. Major process improvements showed significant additional output and improvement in journey time in our published annual report, but this continued to be outstripped by increased incoming complaints volumes (up a further 8% in the year).
- 5.6 **In 2019 - 2020**, we benefitted from the start of the £14,500 per annum saving on our office lease, as well as savings on office costs and corporate legal costs. We again have not replaced all departing staff. The duties of one replacement role were re-graded to a lower grade to achieve a saving. We anticipate process improvement work will again deliver savings.
- 5.7 **For 2020 - 2021**, we will cut our expenditure on legal information services and deliver further savings due to our renegotiated lease. We will absorb increased incoming volumes by generating efficiencies where we can (no additional allowance is made for increased complaints in the year, with cost increases coming from other sources).
- 5.8 **The SLCC is actively exploring further efficiencies due to the coronavirus.** We are keeping all government schemes to support businesses under review. However, as our incoming work has remained high, and given the essential statutory nature of our functions, this means that currently none of these schemes are applicable to the SLCC. We are also mindful of UK Government advice that it does not expect public bodies to apply. Remote working is driving up some costs such as IT, but we are seeing savings on office heating and lighting, catering for meetings, etc.

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

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

Overall income and expenditure:		
Anticipated income:	£ 3,993,181	(previous year £3,580,245).
Anticipated expenditure:	£3,993,167	(previous year £3,575,048).
Levies – individual lawyers (2007 Act):		
General levy:	£ 492*	(previous year £475) <i>* the majority of lawyers pay a discounted rate well below this (see below).</i>
Complaints levy:	£5,000	(previous year £5,000)
Levies – ‘alternative business structures’ (2010 Act):		
Approved Regulator (AR) Fee:	£3,000	(previous year: £8,000)
AR complaints levy:	£8,000	(previous year: £8,000)
Licensed Provider (LP) Fee:	£1,000	(previous year: £5,000)

6.2 Definitions of these levies, and further details on the approach we have taken to the budget, expenditure and levies are in **Sections 7 & 8** below.

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

7 Approach to budgeting

7.1 In line with policy and the practice followed in past years, we followed the same approach this year and as set out in this section.

7.2 As context, the last three years of financial and operational performance are reviewed.

7.3 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.

- 7.4 Four year projections of income, expenditure, and reserves are created, giving a longer term indicative model.
- 7.5 This is then mapped to the Scottish Government’s five year financial strategy – to give wider public sector context.
- 7.6 The SLCC then sets out anticipated expenditures based on its operational plan.
- 7.7 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).
- 7.8 The current year forecast outturn at December 2019 is reviewed, together with the results for the financial year to 30 June 2019. This provides an estimate of anticipated reserves at year end, and the implications for the general levy for 2020 - 2021.
- 7.9 The proposed levy is set, and the budget is issued for consultation.
- 7.10 The responses to the consultation must, by law, be published before the end of March 2020.
- 7.11 The draft budget is reviewed in April 2020, taking into account consultation responses and a further quarter’s financial data.
- 7.12 The SLCC sets the final budget and lays it before Parliament by 30 April 2020.
- 7.13 The final strategy and operating plan are set in May 2020.

8 Further details on levies

The general levy

- 8.1 The general levy has been noted in **Section 6** (above), However, for completeness the proposed general levy is:

- **The suggested general levy is £492** (last year £475)

- 8.2 Although by law a single levy is set, the SLCC Board has the discretion to discount the levy. The significant majority of lawyers pay a discounted rate. The discounted rates are

Actual General Levy Set	£
Private Practice Solicitors +3 Years (Principals/Managers)	492.00
Private Practice Solicitors +3 Years (Employed)	400.00
Conveyancing or Executry Practitioner 3+ years	400.00
Solicitors in first 3 years of practice	200.00
Practising outwith Scotland	130.00
In-house Conveyancing or Executry Practitioner	120.00
In-house Lawyers	120.00
Advocates	189.00
Association of Commercial Attorneys	127.00

The complaints levy

- 8.3 The complaints levy is charged when a complaint is upheld. The statutory aim was to ensure that an element of costs could be recovered, often known as ‘polluter pays’, when a complaint was upheld. This was to balance income from the general levy.
- 8.4 Since July 2019 the complaint levy has been £5,000. Prior to that it had been set at £3,500 since July 2012. The SLCC operates a policy of discounting this levy where a firm has handled the complaint well, and taking into account various other factors.
- 8.5 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.
- 8.6 No change is proposed this year.
- 8.7 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 suggested complaints levy is £5,000** (last year £5,000)

Alternative Business Structure (ABS) Approved Regulator (AR) levies

- 8.8 **AR levy:** Last year this was £8,000 and the year before that this levy was £20,000. We have also received an element of set-up funding from the Scottish Government to cover historical costs and ensure that set-up was finalised within our last business year.
- 8.9 No AR complaints have been received, although we have had several enquiries.
- 8.10 The AR has not yet achieved ‘authorisation’ under the 2010 Act, meaning there are no Licensed Providers (LPs).
- 8.11 There is therefore the opportunity to reduce the fee this year. In some ways, levy volatility could be seen as poor practice, and certainly as the system develops there would be an aim to avoid this.
- 8.12 Last year the levy was calculated on the basis of a 0.5% contribution to general operating costs, thus ensuring that these were not subsidised by lawyers but paid for from the new market.
- 8.13 However, after another year with no substantive progress apparent, we are reducing the levy further to a notional amount to represent low costs. The fee does ensure the minimal work we must do such as continuing to form policy on this annually, assessing the likelihood of this being the year the arrangements from 2010 are implemented, consulting on levies, and other related work are not subsidised by income from the main levy.
- 8.14 This year we communicated early with the AR to indicate that if they did not wish to pay the levy, this was within their control in terms of actions they could take by stepping away from their AR status if they would not be moving to authorisation.
- 8.15 This levy will be collected.

8.16 **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 being recovered this reduced last year 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).

8.17 It is unlikely any AR complaints levy will be received within the year. The levy may change significantly in future years.

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

8.18 **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.

8.19 Based on discussions we have had with the LSS and Scottish Government, it appears unlikely that any LPs will be fully licensed by July 2020, when the first levy will be collected. As a consequence, it may be that no fees are collected.

8.20 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. While the budget consultation is still drafted, 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.

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

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

9 Reserves

9.1 Reserves are currently anticipated to be in the region of £393,455 at the start of the 2020/21 financial year. This figure is below the parameters set out in the reserves policy, which is constantly under review based on risks and operating costs.

9.2 In previous years, we have used reserves to subsidise the levy, working to achieve the lowest level of reserves appropriate for business risks and operating costs. Over the last four years, we clearly communicated that this subsidy will come to an end when reserves are around the target level. This subsidy ended last year (2018 - 2019).

9.3 The budget proposed for this year is expenditure and income neutral.

- 9.4 A higher level of reserves remains a longer term aim but now is not the time to implement such a proposal. The Board will return to this issue at year end, when the provisional outturn for the year is known, and in future years.
- 9.5 Since the consultation, the need to maintain some reserves has become more apparent as we enter a period of unprecedented uncertainty and reduced income (see below). Reserves may be used to allow the RPOs flexibility to split the payment of the levy income to the SLCC, something which is part of ongoing discussions. Reserves or also required in case of default of payment of the levy, or contraction in the number of lawyers.

10 Income

- 10.1 The SLCC has based income on the following factors
- 10.2 Anticipated income from the **general and AR levies**. This is forecast to be £3,859,581 for 2020 - 2021.
- However, there is a risk to this income if the number of lawyers starts to drop due to the knock-on effects of coronavirus. There is also a risk of non-payment in full by the profession or the RPO due to financial pressures coming from coronavirus.*
- 10.3 Anticipated income from the **approved regulator levy**. This is forecast to be £3,000 for 2020 - 2021.
- However, in January we proactively reminded the relevant Approved Regulator that they may wish to reduce their costs by stepping back from approved status (since no authorisation to actually deliver work has been granted) and save these costs, so they may not be paid.*
- 10.4 Anticipated income from **interest earned on deposits**. This is forecast to be £30,600 for 2020 - 2021, thus reflecting current and anticipated levels of investment return.
- However, we are currently in discussion on deferring some of the levy to support firms during the coronavirus lockdown, this could see our interest income significantly reduced.*
- 10.5 Estimated **complaints levy** income of £100,000 has been recognised for budget purposes for the financial year 2020 - 2021. This reflects the recent changes made to the complaints levy policy and the level of awards now being made at the Determination Committee stage of the process. Development of this source of income, to reflect the costs incurred on such cases, could help lessen future rises in the general levy.
- However, we are already seeing firms facing challenges paying this levy due to coronavirus, and have taken the decision to prioritise obtaining the award of redress for complainers over the complaints levy in the first instance. We anticipate that some of this income will be deferred to later in the year or over into the next year, and that more lawyers will default on payment of complaint levy than in previous years.*
- 10.6 **The changes in the market since the original budget was consulted on means there is a risk to the SLCC in relation to all of its income streams.** This limits the ability to reconsider individual levy rates, as there must now be an assumption not all income anticipated will be realised.

Appendix 1: Draft budget for 2020 - 2021

Summary of levies, income and expenditure

Proposed 2020-2021 Levy & Budget

Actual General Levy Set	£
Private Practice Solicitors +3 Years (Principals/Managers)	492.00
Private Practice Solicitors +3 Years (Employed)	400.00
Conveyancing or Executry Practitioner 3+ years	400.00
Solicitors in first 3 years of practice	200.00
Practising outwith Scotland	130.00
In-house Conveyancing or Executry Practitioner	120.00
In-house Lawyers	120.00
Advocates	189.00
Association of Commercial Attorneys	127.00

Total actual levy required from each professional body	£
Law Society of Scotland	3,778,810
Faculty of Advocates	80,136
Association of Commercial Attorneys	635
	3,859,581

Income and Levy	£
Levy from Law Society of Scotland	3,778,810
Levy from Faculty of Advocates	80,136
Levy from Association of Commercial Attorneys	635
Contribution from Complaints Levy	100,000
Approved Regulator Levy	3,000
Estimate of Interest Earned	30,600
Total from Levy	3,993,181

Expenditure	
Staff and Related Costs	3,090,096
Non-Staff Costs	903,071
Total Expenditure	3,993,167

Contribution to SLCC Reserves	14
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Breakdown and comparison of expenditure and levy

Proposed Expenditure

	2020- 2021 Budget	2019- 2020 Budget	Variance	% Variance
Staffing Costs				
Staff Salaries and Oncosts	2,890,254	2,692,500	197,754	7%
Member Salaries and Oncosts	125,180	121,000	4,180	3%
Total Staff Costs	3,015,434	2,813,500	201,934	

Indirect Staff Costs

Staff Training & Development	30,000	30,000	0	0%
Member Training & Development	6,500	6,000	500	8%
Staff Expenses	5,000	5,000	0	0%
Member Expenses	12,000	12,000	0	0%
Other Staff Costs	21,162	21,500	(338)	-2%
Total Indirect Staff Costs	74,662	74,500	162	

Expenditure

Property Costs	334,584	323,000	11,583	4%
Office Running Costs	50,781	48,700	2,081	4%
Direct Case Costs	227,300	176,750	50,550	29%
Communication Costs	39,561	38,500	1,061	3%
Other Costs	168,845	163,000	5,845	4%
Depreciation Costs	82,000	82,000	0	0%
Total Expenditure	903,071	831,950	71,121	

Total Costs	3,993,167	3,719,950	273,217	7%
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Levy Income

2020-2021	Income		
	Levy	No's	Income
Annual Levy			
Private Practice Solicitors +3 Years (Principals/Managers)	492.00	3,350	1,648,200
Private Practice Solicitors +3 Years (Employed)	400.00	3,522	1,408,800
Conveyancing or Executry Practitioner 3+ years	400.00	5	2,000
Solicitors in first 3 years of practice	200.00	936	187,200
Practising outwith Scotland	130.00	905	117,650
In-house Conveyancing or Executry Practitioner	120.00	3	360
In-house Lawyers	120.00	3,455	414,600
Advocates	189.00	424	80,136
Association of Commercial Attorneys	127.00	5	635
		12,605	3,859,581

Appendix 2: Abbreviations and technical terms

Abbreviation or Term	Meaning
ABS	Alternative Business Structure; the name used in the media for LPs (see below).
AR	Approved Regulator; a regulatory body created by the Legal Services (Scotland) Act 2010.
CPD	Continuing Professional Development; the ongoing training that many professionals are required to undertake as part of their right to practice.
CPI	Consumer Price Index
CRM	Client Relations Manager
DP	Data Protection.
First-tier complaints	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.
FoA	Faculty of Advocates; the professional body for advocates and one of the RPOs in terms of our statute.
FOI request	A request made under The Freedom of Information (Scotland) Act 2002.
FVTWM	Frivolous, vexatious, or totally without merit
HR	Human Resources.
KPIs	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.
LP	Licensed Provider; a new type of legal services business ('law firm') created by the Legal Services (Scotland) Act 2010.
LSS	The Law Society of Scotland; the professional body for solicitors and one of the RPOs in terms of our statute.
Our statute/the Act	The Legal Profession and Legal Aid (Scotland) Act 2007.
PCS	Public and Commercial Services Union
Reporter	An independent individual who assists in undertaking an investigation and writing an investigation report.
RPO	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.
Second-tier complaints	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.
SLCC	Scottish Legal Complaints Commission.
SSDT	Scottish Solicitors' Discipline Tribunal; the independent tribunal at which the LSS prosecutes solicitors for professional misconduct.