



Neil Stevenson
Chief Executive
Scottish Legal Complaints Commission
LP86
EDINBURGH 2

Our Ref: PJY/el/LB
Date: 10 March 2016

Dear Neil

SCOTTISH LEGAL COMPLAINTS COMMISSION – BUDGET & ANNUAL PLAN CONSULTATION – 2016/17

Thank you for providing us with notification of your proposed budget and annual plan for 2016/17. As always, we are grateful for receiving this in good time for us to be able to consult with our members and ensure it could be considered in full by our staff team and Board.

Both before and since your appointment as chief executive, we have enjoyed an increasingly open and constructive dialogue with the Commission, both about operational as well as longer term strategic issues. It is essential that we, as well as others with a role in maintaining standards within the legal profession work together in the interests of the public and solicitors who serve that public.

To that end, I also appreciate sight of your draft strategic plan and being given the chance to provide comments. A separate reply will be sent shortly in relation to that plan although some of our observations in relation to your Annual Plan will also apply to your draft strategy.

1. Proposed Budget

We have significant concerns over the Commission's proposal to substantially increase its budget by almost 7%. Given current rates of inflation coupled with the wider expectation and drive within the public sector to reduce costs and increase efficiency, we and many of our members find it difficult to understand why the Commission would bring forward such a considerable increase in its annual spend. This clearly places it at odds with many other similar complaints handling bodies.



The Commission already has substantial resources at its disposal. As you will know, the Law Society's team for investigating conduct complaints and pursuing matters to the Scottish Solicitors Discipline Tribunal consists of 13 staff. Even taking into account the need for support staff, it is striking how the Commission employs 44 full time staff equivalents, three times the size of our own complaints handling team. Yet, when many other public sector bodies are finding efficiencies in staff costs, the Commission is proposing a 7.5% increase in staff costs.

We could better understand a budget increase if it was specifically focused on delivering core operational improvements, such as reducing the time taken to allocate and deal with complaints. However, our reading of the draft Annual Plan suggests this is not the case. The budget increase is being used to fund entirely discretionary areas of work which sit outwith the principal work of the Commission.

The core statutory function of the Commission is to deal with service complaints, act as a gateway for all legal complaints and with statutory oversight functions. These are critical responsibilities which parliament has given to the Commission and it is essential to focus on that core activity rather than the other work highlighted in the draft plan. We cannot support a budget increase without such money being used to deliver a commensurate improvement in core operational performance and activity, particularly the reduction of timescales.

We acknowledge the increase in the proposed levy does not match the proposed increase in the budget in percentage terms. The only reason for this is the Commission's use of reserves to, in effect, subsidise its budget. This is not the first time that the Commission has taken this approach. Whilst we would be more concerned about the budget increase being funded by a greater increase in the levy, we nevertheless question the long term sustainability of the Commission's approach. Accepting such an arrangement now will inevitably mean solicitors will be expected to fund voluntary and non-core work of the Commission in future years through increases in the levy. We do not believe this was the intention of parliament when the Commission was established in 2007.

We also disagree with the proposal to charge an approved regulator of licensed legal service providers a levy of £25,000 in the first year. In terms of dealing with complaints against approved regulators, the functions of the Commission have been specifically delegated to them by the Scottish Government under the Legal Services (Scotland) Act 2010. On that basis, the Commission should return to the Scottish Government and seek funding for this part of your work and in particular the setting up of any processes, procedures and systems that are required to deal with complaints against approved regulators. It is inequitable for an approved regulator such as the Law Society to have to use funds raised from its members to pay a levy in respect of the regulation of an entirely different type of business.

2. Draft Annual Plan

There are a number of positive themes in the draft Annual Plan. In particular, we welcome the commitment to operational improvements outlined in section 3 and the drive to resolve cases at a far earlier stage. In order to demonstrate progress, it would be helpful to get sight of your key performance indicators so we can better understand the targets being set by the Commission and the progress being made against them.

Given current operational performance, reducing timescales and resolving cases at an earlier stage should be the Commission's highest possible priority. Every minute used and every pound spent on other activities is time and money which could be used to address these fundamental and core elements of the Commission's work, yet much of the draft annual plan appears to be well outwith the scope of the Commission. For example and whilst acknowledging the important role that the statutory Consumer Panel will play in your future work, specific consumer research is not a core function of the Commission and should not be paid for with our members' money. There are other organisations which have the experience and resources to carry out broader consumer research on the legal services market. The Commission's core function has and must continue to be complaints handling.

We also question the approach being taken with reference to the marketing strategy and toolkit. It is not a good use of valuable resources to undertake a major marketing plan to "promote your role" and "increase your visibility" when a vast amount of information already exists, particularly online, on the work of the Commission and the processes involved. This is information which consumers can easily access. Equally, the requirement for solicitors to include information on the Commission within the terms of engagement letters means relevant consumers are made aware of their right to complain at the earliest possible stage.

We also question the rationale for a "complete website redesign". We have never received any feedback to suggest consumers are confused or fail to take forward complaints because of the content and layout of your website. We are aware of the resource implications of this kind of project, both in terms of finance and staff time. The existing Commission website already provides clear and accurate information and any costs for a redesign are wholly unnecessary.

We note the proposed action to audit legal provider websites. This would be a considerable and potentially expensive task. Again, this is clearly outwith the remit of the Commission and would divert resource and attention away from its important core statutory functions.

Under 4(e), the Commission should be working with us to identify trends in relation to practice which may be causing concern. In the case of Solicitors, it is the Law Society as the appropriate professional body which consider whether or not particular Rules or Guidance for the profession are necessary or for example need to be amended. The Commission should not seek to duplicate that role. We acknowledge that the Commission clearly has a role to play in providing advice about good complaints handling as one of its core functions. However, we disagree that the Commission should be granted specific statutory guidance powers and that such work is duplicative and risks causing confusion and potential conflict with our role.

We already have in place good channels for communicating, educating and highlighting concerns to the whole profession. In the interests of efficiency, those channels should be used by the Commission, working with us to improve complaints handling within the profession rather than the Commission spending resources in duplicating those.

I hope this feedback on the budget and plan is helpful. As indicated at the start of my letter, we remain committed to working closely with the Commission to improve the standard of service provided by the solicitor profession and to ensure complaints are handled positively and effectively. To that end, we look forward to hearing about the changes you make to the budget and plan to take account of our concerns, before it is laid before parliament.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Lorna Jack', written in a cursive style.

Lorna Jack
Chief Executive