

IMPROVING TRUST AND CONFIDENCE IN SCOTTISH LEGAL SERVICES

Our operating plan for 2016 to 2017

Complaints handling which is:

Independent | Fair | Impartial
Accessible | Efficient | Effective



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1 Introduction

- 1.1 This document sets out the SLCC's operating plan for the operational year 2016/17.
- 1.2 This operating plan was consulted on alongside other key documents: a draft strategy, a draft budget for 2016/17, and accompanying consultation questions. Significant and helpful feedback was received, and we have worked hard to reflect this. Full details of the consultation are available at: <https://www.scottishlegalcomplaints.org.uk/consultation>
- 1.3 Acronyms or technical terms we use are explained in a glossary at the end of this document.

2 Summary

- 2.1 Our core focus is to deliver an independent, impartial, fair and accessible complaints process which is efficient and effective. This is where the majority of our staffing and resource is directed, and our performance is monitored monthly by our Board.
- 2.2 We have a range of other statutory functions which must be a priority including: giving advice on complaints, issuing guidance, monitoring practice and trends, monitoring the effectiveness of the Guarantee Fund and Master Policy, and supporting our statutory Consumer Panel.
- 2.3 Over 90% of our staff work directly on tasks that deliver our statutory functions – the remainder support these functions with internal services (facilities, HR, finance) or through external work (engagement with stakeholders, outreach, and communications).
- 2.4 Finally, we have a small amount of project work we undertake each year. This is around 1-2% of our direct costs (for example, a payment for a product, service, contractor or license to deliver the project which we would pay out from our budget), and involves a small number of our staff (usually also alongside duties relating to a statutory function). Some of this work originates from the above functions (making us more efficient for the future, or trying to reduce the need for complaints by sharing learning). Other areas are the type of work organisations would generally undertake to fulfil their functions (for example, ensuring people know about our services, or contributing to key issues in the sector).
- 2.5 28 projects or areas of work are listed. They are listed under the five priority areas we laid out in our strategy, although of course many overlap more than one area. Our priorities are to:
 - (i) Build trust
 - (ii) Promote strong relationships
 - (iii) Deliver early resolution and redress
 - (iv) Drive improvement
 - (v) Develop as a high performing organisation
- 2.6 We have also indicated what stakeholders can expect us to deliver as part of our work. This may not cover every aspect of the project or aim, but will help stakeholders track our progress.

- 2.7 Based on consultation feedback we realised that stakeholders were perhaps interpreting the scale of a project based on their own size and experience, rather than how we, as a small body, saw them. To assist, projects are categorised in terms of the scale predicted at the date the Operating Plan was approved. A (12 projects) means something very small – under five person days work and/or £1000 cash cost, B (3 projects) means a medium sized project, under ten person days and/or £3000 cash cost, and C (13 projects) means a slightly larger project.
- 2.8 We have also tried to make clearer where projects relate to our core complaints process and our statutory functions. This makes the text a little longer but we hope it is helpful.

3 Approach

- 3.1 The chosen work and projects draw on our new strategy, which covers the period 1 July 2016 to 30 June 2020. There will be four annual plans within the period covered by the strategy, of which this is the first, and when combined the plans will need to ensure full delivery of the overall strategy.
- 3.2 Our core work of complaints is driven by several factors – the incoming number of complaints, how these complaints are categorised, whether they pass the first stages of our process, whether consensual resolution is achieved or formal determination required, and whether they are appealed. We are responsive to the case load (over 1,000 incoming cases a year) and before we do anything we need to ensure these complaints are processed. However, being demand driven, and being required by law to manage every case, we do not need our operating plan to detail each aspect of work to ensure this gets done. As a result there is a greater focus on specific projects within a year.
- 3.3 Information on our core process is available on our website at: <https://www.scottishlegalcomplaints.org.uk/making-a-complaint/complaints-process.aspx>
- 3.4 Information on our performance is available on our website at: <https://www.scottishlegalcomplaints.org.uk/resources/annual-report-accounts.aspx>
- 3.5 Of the projects in the Operating Plan some projects are scoping, consultation or research. One of the advantages of moving to a longer term plan is that bigger pieces of work can be properly planned and then phased over the coming years. We will consult and engage with stakeholders as part of these items of work, to ensure consumer and professional input. Consumers and lawyers will benefit where, on appropriate projects, there can be effective working with others. This is especially effective where this avoids duplicating cost.
- 3.6 Other items of work start to implement key changes to our approach based on the strategy, and should deliver outputs and outcomes which are immediately visible in our work.
- 3.7 Many of the projects may seem to have a consumer focus. In relation to individual cases we are rigorously independent and impartial, with the independent members of our Determination Committees making final decisions. However, consumers need to know about our services, and be appropriately supported to use them. All consumers and lawyers benefit from learning from trends and improving confidence in the sector, something academic research shows will improve economic sustainability and growth.

4 Operating Plan – 2016/17

| 1. BUILD TRUST - so consumers and lawyers know we are here and have confidence in our service | | |
|---|--|----------|
| Objective | Deliverable | Priority |
| <p>a) Promoting our role and increasing our visibility to ensure consumers know we can assist, and to reduce time-barred complaints Ensuring we build trust through a combined message of the overall low number of complaints in the sector (and therefore the trust consumers can place in lawyers), but that independent help is there when needed and supported by all.</p> <p>Develop a four-year marketing strategy – (proportionate to our role and statutory functions) which segments our audiences, defines key messages and channels, opportunities for signposting, and measures impact – and start to implement this. (For example, we know men access our services more than women. Under s149 of the Equality Act 2010 we have a duty to tackle equality issues, and under s 20 we must work to remove barriers)</p> | <p>A four-year marketing strategy</p> <p>Agreed messaging</p> <p>Agreed targets and priorities</p> <p>The first six months of marketing activity</p> | C |
| <p>b) Ensuring consumers know how to complain, and reducing barriers to complaining We need to ensure consumers can access our core statutory complaints process. Researching what consumers expect to be told about making a complaint by their lawyer (for example, do they expect to see in-office signs about how to complain, or get a leaflet), and producing a report to encourage any appropriate change in the sector, accompanied by supporting materials.</p> <p>Contacting a small sample (~20) of enquiries contacts that do NOT later convert into a complaint to assess if our process has in any way been a barrier (geography, protected characteristics from the Equality Act 2010, socio-economic, literacy, etc). Reviewing our own 'Service Delivery Complaints' to look for themes around access. Ensuring we meet our s34 requirement to use the preferred means of the consumer or lawyer for communication where possible.</p> | <p>Research report completed</p> <p>Recommendations made and agreed</p> <p>Supporting materials produced and available / downloadable from website</p> <p>Changes to systems implemented</p> | A |
| <p>c) Client Relations Managers– helping lawyers manage complaints, and reducing those which need to progress to us To help reduce the causes of complaints, and cost to all in the system, we want to develop our quarterly newsletter (launched under our last annual plan) to achieve a 20% click rate, and to start greater interaction with CRMs on learning points emerging from our complaints experience.</p> <p>Under s34 we have a duty to provide advice on the complaints process. Delivering this advice to lawyers proactively through mass communication, or group learning sessions, is efficient as it reduces the burden of individual calls, emails, letters, and other enquiries.</p> | <p>4 x editions at 20% click rate</p> <p>Articles and materials produced and delivered</p> | A |

1. BUILD TRUST - so consumers and lawyers know we are here and have confidence in our service (cont.)

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| <p>d) Helping MSPs with constituency work, engaging with them on change which would let us carry out our core complaints role faster, more efficiently, and more effectively Many MSPs help their constituents with issues relating to our core complaints process. We will contact MSPs to give them up to date information to assist them in helping constituents who raise issues surrounding legal complaints. This will also assist in promoting our role and the need for legislative change in some areas. Standard information (FAQs, direction to our website) should help reduce individual correspondence.</p> | <p>Information pack created Twice-yearly newsletter</p> | <p>A</p> |
| <p>e) Building our relationship with the Faculty of Advocates, Faculty Services Ltd., and advocates Much of our work throughout this annual plan relates only to solicitors – there are more solicitors in Scotland and the number of complaints and the risks makes this the right area to focus on. Nevertheless, advocates are also part of our work and we wish to ensure we are engaged with them, and supporting their needs, where possible. We will meet regularly with the Faculty, support their CPD, and share ‘case study’ learning from the small number of complaints we do see. An annual update session will be provided to Faculty Services Ltd clerks.</p> | <p>Regular meetings held Content and CPD delivered</p> | <p>A</p> |
| <p>f) Scoping a new website from a user perspective Engaging with consumers, lawyers and the relevant professional organisations to assess their information needs and creating the business case for a complete website redesign and relaunch, to allow this to be delivered the following year (17/18 business plan). This will assist with our statutory duty to give advice on the complaints process, improve the accessibility of our service (to all consumers, and also in terms of web accessibility under the Equality Act 2010). It also meets procurement requirements of ensuring periodic re-tendering of our larger costs. We will also examine how to increase the presence of the website in search ranking to assist consumers.</p> | <p>Fully developed project plan and costings approved by Board in time for inclusion in 17/18 budget</p> | <p>B</p> |

2. PROMOTE STRONG RELATIONSHIPS - between consumers and their lawyers, helping fix issues quickly and reducing the causes of complaints

| Objective | Deliverable | Priority |
|---|---|----------|
| <p>a) Professionalising 1st tier complaints handling / building better data on the consumer experience The SLCC believes access to in-firm complaints logs may assist in better risk management, could assist in a focus on ‘polluter pays’ (rather than all firms paying costs) and could give data allowing the causes of complaints to be tackled better by giving a completer picture of evidence in the sector. This is a small, focussed, and voluntary project to examine a cross-section of first tier handling logs (i.e. law firms’ own internal complaints handling), to see if patterns in them (area of law, nature of complaint) correlate with the general trends we observe. We will consider how this additional complaints information may be used to reduce risk for consumers, or make complaints handling more efficient. It will also highlight best practice in how law firms internally share learning from complaints to prevent future issues. Findings will inform our future policy on the issue of firms’ complaints logs.</p> <p>We will review the consumer information and support we provide to assist people to make an effective complaint.</p> <p>Finally, we will consider available evidence on the impact of training on complaints handling in helping resolve complaints at source (which tends to be better for the consumer and lawyer, and more efficient) and assess if there is a case to be made for a mandatory training requirement for those who deal with complaints.</p> | <p>20 firms contacted requesting logs</p> <p>Report on findings</p> <p>Recommendations for future</p> <p>-----</p> <p>Focus groups + outcomes published</p> <p>-----</p> <p>Report published and recommendations made</p> | <p>A</p> |
| <p>b) Support for lawyers handling 1st tier complaints To improve how we dispense our statutory guidance and advice functions we wish to undertake a small project to research what assistance lawyers may expect from the SLCC to help support good 1st tier complaints handling (inc reviewing recent research by LSS), examining options, and planning actions into our work for 2017/18.</p> <p>We will continue the work, well received by lawyers, to deliver a number of training events a year on ‘good complaint handling’ and related themes, and will work with the professional bodies to ensure this is delivered through existing channels where appropriate to avoid duplication of effort.</p> | <p>Report and recommendations published</p> <p>Publish details of our attendance at events</p> | <p>A</p> |
| <p>c) Review the use of our s40 powers to achieve better and faster outcomes in the overall complaints system We have a statutory power to issue guidance to the profession (s40). We will review our guidance on complaints handling in light of past cases, if possible setting clearer and more defined requirements for lawyers in the way they handle complaints at the 1st tier, and make it clear that this guidance will be used in our decision making.</p> <p>The aim is to ensure complaints are well handled at the first stage, saving time and cost for all. A better assessment of the complaint at 1st tier will also assist in making the eligibility stage of the SLCC process more efficient. Where complaints are not well handled, this will be reflected in the outcome of a complaint which comes to the SLCC so that the least possible cost is picked up by other lawyers through the levy.</p> | <p>Take advice on the exact nature of our guidance issuing powers</p> <p>Issue new/revised guidance</p> | <p>C</p> |
| <p>d) Independent Consumer Panel We will work with and support the work of our Consumer Panel in exploring which consumer principles apply to legal services, and specifically how these may apply in Scotland.</p> | <p>Published report.</p> | <p>C</p> |

3. DELIVER EARLY RESOLUTION & REDRESS – through a independent, impartial, fair and accessible complaints service which is efficient and effective

| Objective | Deliverable | Priority |
|---|---|----------|
| <p>a) Improving our predictive ability, process efficiency and setting targets Our core focus is the performance, and continuous improvement, of our complaints handling process. We will finalise our work from 15/16 on our predictive model for anticipating caseloads and progression at each stage.</p> <p>Based on this model, we will consult on what, from a consumer perspective, is the right balance of quality, speed, cost, risk and fairness.</p> <p>We will implement our project plan to review the quality and efficiency of our core process. Based on a project plan developed in last year's operating plan (14/15, approved by our Board in March 15) we will review our process from end to end, with input from stakeholders and benchmarking against the processes and performance of other organisations.</p> <p>The aim is to ensure that our process is optimised for delivering each complaint quickly, efficiently, fairly, to a high standard of quality, with appropriate customer satisfaction, and at an appropriate cost. We will do this by:</p> <ul style="list-style-type: none"> - Reviewing our processes; - Adjusting as necessary (or informing proposals for legislative change where changes are not in our power); <i>and</i> - Monitoring the results <p>Using the case-flow model we have developed as part of this year's (14/15) plan we will set key performance targets for each stage of our process.</p> <p>This is one of the most significant projects in the plan</p> | <p>A working predictive model used bi-monthly to anticipate/monitor workload</p> <p>-----</p> <p>Public debate on model and acceptable time limits</p> <p>-----</p> <p>Specific report on each stage of the process and possible efficiencies</p> <p>Project plans created to implement agreed efficiencies</p> <p>-----</p> <p>Published performance targets</p> | <p>C</p> |
| <p>b) Quality Decision Making (toolkit) We are developing an internal toolkit to improve the quality of our decision making within our core complaints process and in light of appeal feedback. We will also publish this to increase our transparency and accountability. We hope it will aid consumers and lawyers in assessing the likelihood of success of any complaint, as well as assisting in allowing parties to hold our decision making to account.</p> | <p>Report published</p> | <p>C</p> |
| <p>c) Mediation To improve our statutory mediation function, part of our core complaints process, we will implement the findings of our research into why people accept and refuse the mediation option (lawyers and consumers) to try to ensure we can better encourage people to take up the mediation option and increase the numbers that do. We know that resolution rates are high once parties do mediate, satisfaction with the outcome is high, and there is a significant cost saving against a formal determination.</p> | <p>Increased uptake of the mediation option by both parties</p> | <p>A</p> |

3. DELIVER EARLY RESOLUTION & REDRESS – through a independent, impartial, fair and accessible complaints service which is efficient and effective

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| <p>d) Client redress – ensuring compensation awarded is received. We are concerned that the time and cost of our core complaints process, and confidence in the profession, are all undermined when we make a statutory award and this is not paid to the consumer. We will produce a report on the circumstance where clients have not received the redress awarded by the SLCC, or have received it only after significant delay. We will look at what new tools we may be able to use (such as ‘name and shame’ and press releases when clients are left without the compensation awarded). We will also continue to encourage debate with stakeholders on causes and solutions, and look for ways to ensure a client always receives redress they have been awarded.</p> | <p>Report published Recommendations for the sector/SG on tackling the issues</p> | <p>B</p> |
| <p>e) Alternative Business Structures If an ‘Approved Regulator’ is authorised during the year we will finalise our cost model, consult on the final levy arrangements and will collect the two new levies due (approved regulator, and licensed provider). We will need to upskill our staff on the new regulatory structures, and create a process for handling the new types of complaint possible. We will also work positively with government and stakeholders if government considers exercising its powers to issue regulations in relation to certain aspects of the new process. <i>This is contingent on an Approved Regulator being authorised during this period, but as the responsibility on us would be statutory we would have to undertake this work.</i></p> <p>If this goes ahead, it would be one of the most significant projects in our plan. We do not have control as to whether these new models are introduced or not, and if they are must prepare and then deliver our new statutory functions.</p> | <p>Levies - consult, approve and collect Internal outline process approved Government position on its ability to issue regulations agreed</p> | <p>C</p> |

4. DRIVE IMPROVEMENT - through a culture of learning from complaints, quality improvement, and our influence in the sector

| Objective | Deliverable | Priority |
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| <p>a) Legislative change – creating a more efficient and effective complaints handling system Using the learning we have gained from over 8,000 complaints, and with a focus on improving our core process and other issues related to our complaints experience, we will make the case for legislative change. We envisage a more permissive Act (as promoted by the Law Commissions for health professionals/complaints), a simpler framework focussed on the consumer’s journey through legal services and not on traditional structures, and new tools to allow risk-based and proportionate responses (and so more efficient and effective complaint handling).</p> | ‘Manifesto’ of proposed changes published | C |
| <p>b) Scope a project to create a single legal complaints portal We will scope the creation of an ‘aggregator’ website which supports consumers through all aspect of complaints about law (SLCC, LSS, FoA, SSDT, signposting to how to make a judicial complaint, courts, etc.). The modelling would also then allow engagement with policy makers on whether that is the optimal consumer complaints journey. This is a small project (perhaps 2 days’ work), but our commitment to viewing complaints from the user perspective (lawyers and consumers) has made it a priority to consider whether they can easily access information in one place.</p> | Fully researched and developed project plan and costings approved by Board in time for inclusion in 17/18 budget | A |
| <p>c) Thought leadership We will host two round-table discussions with leaders from legal regulation and consumer bodies to discuss the future of legal complaints and service standards (gaining external expertise to inform our internal process improvement work), and we will publish reports on the visions of the future shared. One of these will specifically focus on our core complaints function. We will review the complete complaints handling journey (through our own process and those of the other bodies involved) and the time that takes (including the impacts on consumers and lawyers). The other session will relate to one of our other statutory functions.</p> | <p>Delivery of two well attended roundtables</p> <p>Publication of outcomes</p> | A |
| <p>d) Trend analysis Based on our statutory trends analysis responsibility we will publish anonymous trend information on the percentage of complaints originating from individual firms to allow better understanding by the sector of the pattern of complaints. We will lead discussion with stakeholders on whether new approaches are needed for firms where frequent issues are arising (greater emphasis on ‘polluter pays’ or targeting of high complaints sectors, like conveyancing, to allow a reduction of costs for other lawyers where complaints are rare). We will make recommendations for change if required.</p> | Report published based on existing data | A |
| <p>e) Oversight of Guarantee Fund and Master Policy (based on s39 of our statute) We will plan and consult on our approach to oversight of the Master Policy (the broker for which will change this time, for the first time in 40 years) and the Guarantee Fund (now trading as the Client Protection Fund) and develop proposals for 17/18 and 18/19 business plans.</p> | <p>Public consultation</p> <p>Fully researched and developed project plan and costings</p> | B |

| 5. DEVELOP HIGH PERFORMANCE as a complaints organisation and employer | | |
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| Objective | Deliverable | Priority |
| <p>a) Effective and sufficient resourcing Focussed on our core complaints process, and based on a predictive model we developed in our 14/15 operating plan, we will review our staff resources, and will re-plan workloads and our use of independent ‘reporters’. We will report publicly on the ‘thresholds’ that may see increased or decreased resource required.</p> <p>We will review our key cost areas, and start preparing for re-tendering over the next 2-3 years – this includes leases, IT, and legal services.</p> | System ‘control’ and ‘specification’ limits agreed and published | C |
| <p>b) Online HR system We will fully implement a new online HR system to support staff and line managers better in our flexible working model. This system has a cash cost, but frees human resource staff to focus on other work.</p> | HR system in full use for time and attendance and management of staff data | C |
| <p>c) Staff - Training, Development, engagement and reward We will develop and deliver a staff training and development plan to support our core complaints work and our strategy. This will focus on improving our customer experience for those using our complaints service, clearer communication, project management, complaints handling and decision making. We will adopt a 360 appraisal system for senior managers.</p> <p>We have always paid all our staff above the living wage, and will now work towards Living Wage Accreditation by starting the process of liaison with suppliers and ensuring their compliance.</p> <p>In line with the Scottish Government ‘Working Together’ review we will continue to work with our system of Staff Representatives to create a positive work place and will report publicly on our work.</p> | <p>Training plan delivered – >80% of content</p> <p>-----</p> <p>All suppliers contacted and assessed, negotiation underway on future compliance.</p> <p>-----</p> <p>Information published in annual report</p> | C |
| <p>d) Improving our users’ experience We will scope and start delivering a four-year plan to deliver improvements in our customer experience and our use of plain English for those using our core complaints process – this may well involve reviewing how we set required competencies, recruit, continuously train, motivate and support our staff. To deliver the first elements of this plan.</p> | <p>Four year plan finalised</p> <p>First elements delivered and evaluated</p> | C |

5. DEVELOP HIGH PERFORMANCE as a complaints organisation and employer

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| <p>e) Training and Development – Board members (Improving our complaints decision making at the ‘appealable’ stage of eligibility and determination) We will develop a structured plan to support high quality decision making, and deliver this through short development sessions (case review, etc.) after two Board meetings per year.</p> <p>We will run four half-day events for Board members (inc. a case review) per annum on topics to assist them in their work. This will mean a learning session is attached to every Board meeting.</p> <p>Three new Board members will have been appointed by the Scottish Government with a focus on the 50:50 commitment, and three further members will be appointed during this period. We will work to attract and then train and support our diverse group of Board members.</p> | <p>2 x session delivered</p> <p>4 x sessions delivered</p> | <p>C</p> |
| <p>f) Learning organisation & knowledge management systems Our management team will take part in training and development on creating a learning organisation, and work with all staff to create knowledge management plan and toolkit.</p> | <p>Full attendance at learning events</p> | <p>A</p> |
| <p>g) Archiving, and review whether to implement fully paperless processes To audit and reduce our holding of paper files (and the associated costs – our current storage options are fully at capacity), and ensure our digital archive is our primary storage medium. To scope work and develop a project plan for 17/18 to start the move to ‘paperless’ working – taking into account the priorities and best practice shared in “Scotland’s Digital Future: Delivery of Public Services”. This may have the potential to increase the efficiency of our core complaints process.</p> | <p>70% reduction in paper files</p> | <p>A</p> |
| <p>h) To deliver the next stage of development of our New Pro case management system This system underpins our core complaints process. Adjustments are needed to help improve our internal management performance and how we may be able to generate and publish better key performance data for an external audience to increase our accountability. We will log and fix issues raised by users, improve data reporting, etc. – taking into account the priorities and best practice shared in “Scotland’s Digital Future: Delivery of Public Services.”</p> | <p>Upgrade delivered on system</p> | <p>C</p> |

5 Acronyms and terms

| Acronym / term | Meaning |
|---------------------------------------|---|
| 1st 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 us. |
| 2nd tier complaints | When a complaint comes to us, having already been considered by the law firm or advocate. |
| CPD | Continuing Professional Development – the ongoing training many professionals are required to undertake as part of their rights to practice |
| FoA | Faculty of Advocates – the professional body for advocates and one of the 'Relevant Professional Organisations' in terms of our statute |
| HR | Human Resources |
| LSS | Law Society of Scotland – the professional body for solicitors and one of the 'Relevant Professional Organisations' in terms of our statute |
| Our statute | The Legal Profession and Legal Aid (Scotland) Act 2007 |
| 'Reporters' | A reporter is an independent individual who assists in undertaking an investigation and writing an investigation report. |
| RPO | A 'Relevant Professional Organisation' in terms of our statute |
| SLCC | Our own organisation, the Scottish Legal Complaints Commission |
| SSDT | The Scottish Solicitors Discipline Tribunal. This is the independent tribunal at which the LSS prosecutes solicitors for professional misconduct. |