

## Building on...

- Improved performance : increasing quality, maintaining pace
- A 'new norm' of complaint volumes and complexity
- A culture of change and innovation

A consultation on our draft strategy for 2020 - 2024, and our draft operating plan and budget for July 2020 - June 2021

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## 1 Executive Summary

- 1.1 This consultation document sets out the SLCC's draft strategy for 2020 - 2024, and our draft operating plan and budget for the operational year 2020 - 2021.
- 1.2 **The deadline for responses is 12:00 noon on Thursday 19<sup>th</sup> March 2020.** The SLCC consults at the same time each year, as set by statute, and no late responses will be considered by the Board. We must publish responses to the consultation by the end of March 2020.
- 1.3 **The strategy** is aimed at delivering change and improvement in our work. We anticipate increased volumes of work over the four years, which we want to handle more swiftly than at present and to an acceptable quality standard.
- 1.4 **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, both 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.
- 1.5 **We have suggested four strategic aims** to deliver improved performance. These will help us handle more complaints more quickly, and to an acceptable quality standard. These aims focus on the delivery of our core services, innovation so we can help people in new ways, preventative work to reduce the common causes of complaints, and influencing change, to build a better system for the future.
- 1.6 **We have then suggested four internal priorities which will influence all our work to achieve these aims.** These include a focus on the people who are users of our service, continuous improvement, the use of IT and digital tools, and on our own people (who ultimately deliver all our work).
- 1.7 **The operating plan and budget** are aimed at delivering the first year of work under the new strategy, based on an ongoing incremental approach to change over the four years.
- 1.8 **Our core operational work next year** will include helping over 3,000 people resolve over 1,500 complaints, dealing with 70 Data Subject Access Requests, 30 Freedom of Information requests, 8 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.
- 1.9 **An overall budget increase is proposed of 3.5%. This means an increase of £4.00 for the year on the levy 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 principles and partners in private practice.**

- 1.10 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.
- 1.11 **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.
- 1.12 We look forward to hearing a range of comments and views and encourage responses.
- 1.13 By law, we must publish your response unless you specifically request, in writing, that it remain confidential.
- 1.14 The abbreviations and technical terms we use are explained in a glossary at **Appendix 2**.

## 2 A proposed new strategy for 2020 - 2024

- 2.1 Our current strategy ends in June 2020.
- 2.2 We have been through a detailed development process, and this is subject to an audit by our internal auditors (Scott Moncrieff) to ensure we have used appropriate planning, techniques and rigor.
- 2.3 A background document sets out further detail on the issues we have considered, and assumptions we have made. This can be found online at:  
<https://www.scottishlegalcomplaints.org.uk/consultation>.
- 2.4 Our proposed vision for what the organisation can achieve is that **‘every client receives a professional service, and every lawyer adheres to professional standards’**.
- 2.5 **We have suggested four strategic aims** to achieve our ambition to be an efficient and effective complaints and improvement body which is delivering a quality service. Our aims are to:

### Deliver

Deliver an approachable, people-centric, fast, fair and proportionate service leading to quality resolutions.

### Innovate

Innovate by working as a performance-focused, change confident and resilient team, delivering our work in new 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 then suggested 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 **For each internal priority (para 2.6), which will assist in achieving our strategic aims (para 2.5), we have identified key areas of work.** More information on these can be found in Section 3.

2.8 **Finally, we have evolved and updated our values statement to include five key values:**

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

2.9 **We have also considered what strategic success would look like.** There are different indicators applicable to different areas of work (and some are quantitative whilst others are qualitative); examples include:

#### **Deliver**

- Reducing our 'Work In Progress' to incoming complaints ratio
- Reducing complaint 'Journey Time'
- Improving our customer service feedback
- Reducing cost per case

#### **Innovate**

- Demonstrable delivery of an ongoing change programme
- Testing of new ways of delivering our services
- Ensuring our 'People Plan' is aligned to a culture of change and creativity
- External recognition for our change and innovation work

#### **Prevent**

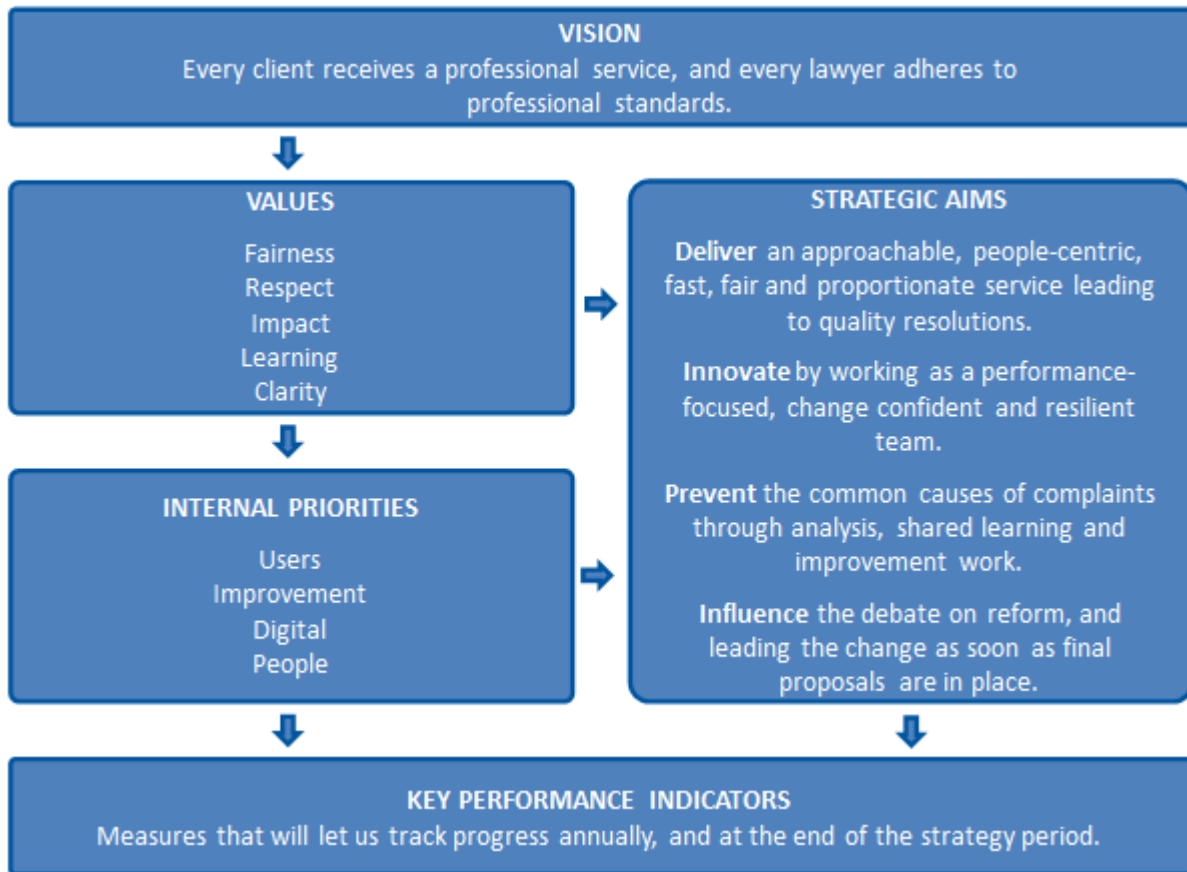
- Lawyers engage in our face to face and online learning programmes
- Published guidance is downloaded, cited and used
- Better handling by lawyers at the first-tier complaints handling stage and improved engagement by them thereafter in the statutory process
- Ultimately, the aim is to see a reduction in the common causes of complaints

#### **Influence**

- Our policy positions demonstrably influence the debate
- We present compelling evidence from research
- We continue to be invited to engage in reform discussions
- Final proposals increase independence and simplify the complaints maze

2.10 The finalisation of these measures of ‘success’ will take place after the consultation on the draft strategy.

2.11 How these elements work together:

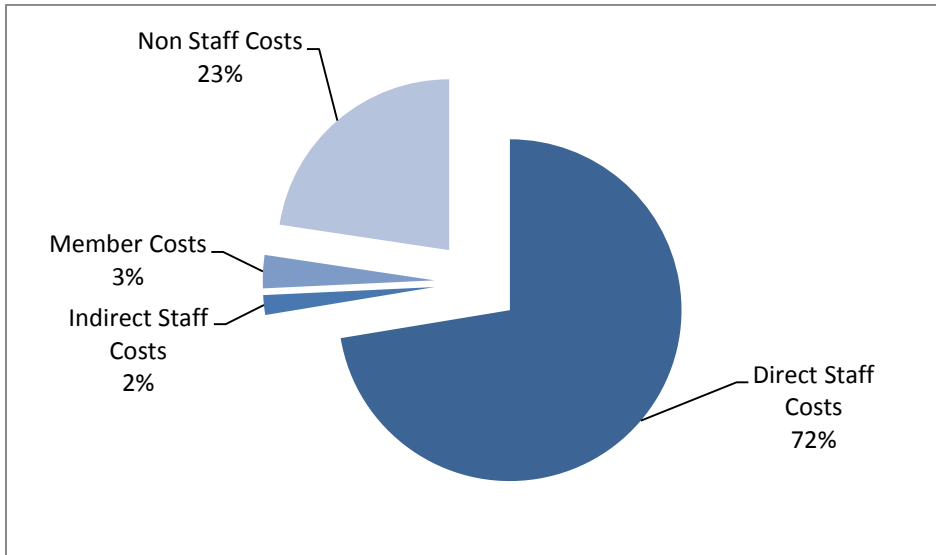


2.12 We welcome views on all aspects of our approach to developing the strategy and the focus of work for the next four years set out within it.

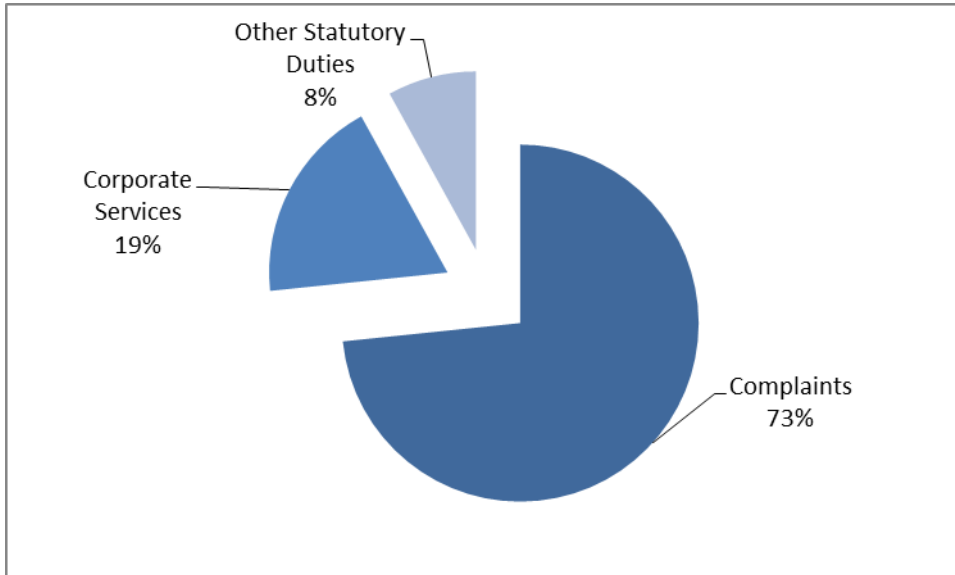
### 3 Our operational delivery for 2020 - 2021

#### 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:



#### Complaints about lawyers – anticipated volumes

3.3 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.

3.4 How we deal with legal complaints is shaped by several factors. This includes the incoming number of complaints and their complexity, how these complaints are categorised, and whether they pass 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.



3.5 Information about our complaints processes is available on our website at <https://www.scottishlegalcomplaints.org.uk/your-complaint/>

3.6 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/>

3.7 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 determination.	1,326	1,392	1,462
Of those eligibility decisions, 'FVTWM' and 'Time bar' are reserved to Commissioners:	261	274	288
Full service <b>mediations</b> will be required on the following:	80	84	88
Full service <b>investigations</b> 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

3.8 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.

3.9 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).

3.10 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

3.11 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

3.12 KPIs are 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

3.13 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), but currently expect this year and next to be more typical.

3.14 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.

3.15 Finally, we have seen appeals increase in line with complaints, and these are a significant driver of resource and cost.

Others case types	2018-2019 Actual	2019-2020 Forecast	2020-2021 Forecast
Handling	13	6	8
Freedom of Information Requests	27	29	31
Data Subject Access Requests	63	67	72
Appeals	20	25	27

### Other case related activity - KPIs

3.16 Handling – respond in 14-21 days for eligibility, 4-8 months for investigation dependent on complexity.

3.17 Freedom of Information Requests – statutory duty to respond to all cases within 20 working days.

- 3.18 Data Subject Access Request – statutory duty to respond to cases within 1 month (with an extension available on complex cases of 3 months).
- 3.19 Appeals – less than 2.5% of cases appealed.

### **Our operating plan – including our other statutory duties**

- 3.20 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
- 3.21 The remainder of our planned operating activity either:
- services these additional statutory duties; or
  - supports or enhances our complaints functions.
- 3.22 We have set our planned work for 2020 - 2021 against the internal priorities (para 2.6) we believe will deliver our strategic aims.

### 3.23 Users:

Theme	By the end of 2024 we will have achieved...	In year one we need to...	Link to four strategic aims...
Using service design to place people first	Published outcomes from 'service design' projects showing diverse users (lawyers and consumers) at the heart of our improvement work.	<i>No separate project in year one – the focus will be on involving users in defining a new feedback system – see below.</i>	N/A
Delivering quality services in clear and simple language	Delivery of a four-year programme of work, through a cross-organisational team, on accessible English to ensure everyone understands our reports and decisions.	Complete a cycle of training for staff on accessible English. We will complete a review of all template letters and reports within our system. We will explore using software to track readability scores of our consumer communications.	Deliver Innovate
Delivering quality customer service and making people feel heard	Improvement in the quality of our customer service across all stages of our process – from enquiries to final outcome - ensuring all our diverse users feel heard, and get the information they need when they need it.	Engage staff on existing good practice that we can build on and identify areas we need to address. We will use a web survey to assess user information needs. We will do a desk-based assessment of best practice models we can learn from (including looking at models which have won recent awards). We will develop a three year plan.	Deliver Innovate
Listening to, and acting on, customer feedback to improve quality	The launch of a new feedback system to allow us to understand our diverse customers' experiences of enquiries and throughout the complaints journey, and we will have undertaken a post implementation review.	Work with users utilising the service design model to create a new approach. We will finalise the design for a new system for launch at the start of the 2021/22 business year (although anticipate it will evolve further in future years). We will ensure this captures feedback from a range of sources (feedback forms, compliments, service delivery complaints, etc).	Deliver Innovate Influence  <i>* also links to work with Consumer Panel – para 3.27 below</i>
Engaging directly with the profession	Better direct engagement with the profession, by working with frontline practitioners on projects and policy.	Host one meeting of Client Relations Managers (CRMs), focusing on sharing learning and building ideas around our prevention work. Build our LinkedIn presence to improve direct engagement.	Innovate Prevent Influence
Engaging more with Consumer Organisations	More effective engagement with diverse consumers and consumer groups to understand changing expectations and ensure people are directed to our services where relevant.	Liaise with consumers, advocacy and support bodies to understand the key 'trigger points'. Identify when they may need information on the SLCC or information regarding referring people to us. We will map what information and support they need at those points. We will aim to create resources and communication to meet those needs.	Innovate Prevent Influence  <i>* also links to work with Consumer Panel – para 3.27 below</i>

### 3.24 Improvement:

Theme	By the end of 2024 we will have achieved...	In year one we need to...	Link to four strategic aims...
<b>Continually improving the quality and pace of our service</b>	A refresh of our ongoing improvement programme, and further delivery of change, based on our work with staff and users to identify improvements it is possible to make within the current legislation to achieve a more efficient and effective process.	Implement a further series of targeted improvement projects to improve Journey Time. If our 'scrutiny event' in the 2019-20 operational year is successful, we will run a further external scrutiny session on a core area for improvement. We will also run the first full year of our new integrated QA system, evaluating the outcomes and considering further development.	Deliver Innovate Prevent
<b>Resolving complaints early and consensually</b>	Maintenance of our successful focus on early resolution and building of understanding with our stakeholders that most of our work does not involve formal adjudication but is facilitating consensual outcomes.	Publish content on why we think early resolution is better for both parties. Explore digital options for improvement ( <i>see digital section</i> ).	Deliver Innovate
<b>Tackling poor professional engagement</b>	Substantial improvement in the persistent issue with firms not responding when we request documents and explanations, which involves cost and delay.	Publish a policy on how we will use our statutory powers, and other options, to tackle this problem.	Deliver Influence
<b>Increasing the effectiveness of 'Oversight' as a tool to increase quality</b>	A final published statement and plan of work, following consultation, on how we intend to use our 'Oversight' functions more coherently and effectively. This will include how we will use data to focus on systemic issues to inform our approach to audits, handling complaints, redress, guidance, advice and trend publication. Delivery of that plan of work will also have been achieved.	Finalise the internal review from 2019-20. Publish a consultation on our proposed approach and priorities. Publish the outcome of the consultation and the action plan. Start delivery of year one projects.	Deliver Innovate Prevent Influence
<b>Working to prevent common causes of complaint</b>	An enhanced model of education, guidance and outreach work which will have moved to focusing on how we prevent the common causes of complaints, and prevent the need for complaints to move from 'first-tier' to the SLCC. We will also increase our digital outreach ( <i>see digital section</i> ).	Continue to deliver a planned outreach programme of speaking at CPD events organised by the profession or education providers. Refresh materials to focus on prevention of common causes, and better first-tier resolution. Liaise with RPOs on how we may better communicate information which assists the prevention of causes of complaints or escalation from 'first-tier'.	Innovate Prevent Influence
<b>'Reimagine Regulation'</b>	Consistently promoted the core policy themes set out in our <i>#ReimagineRegulation</i> work.	Continue to work with Scottish Government, Law Society of Scotland, Faculty of Advocates and our Consumer Panel on changes which may be possible by statutory instrument. Continue to engage with the Scottish Government working party, or the work that follows, on longer term reform, including responding to any consultation.	Innovate Influence

Theme	By the end of 2024 we will have achieved...	In year one we need to...	Link to four strategic aims...
<b>Improving Transparency</b>	Increased transparency by publishing more information on our work and performance.	Review the quarterly performance data we publish. Consider the publication of a Board report, or agenda and papers.	Innovate Influence
<b>Delivering sustainable operations</b>	Reduced environmental impact through staff-led initiatives, and delivery of our biodiversity duties.	Support 'Climate Change Week' with a week of themed activity on our carbon footprint. Assess the paper saving from our work on a 'digital first' approach.	Deliver
<b>Implementing the 2010 Act</b>	Continued monitoring of the ongoing implementation of the Legal Services (Scotland) Act 2010, and preparation for the introduction of Alternative Business Structures.	<i>Reactive only – we have been on standby each year since the legislation was passed to deliver if required.</i>	Deliver Influence

### 3.25 Digital:

Theme	By the end of 2024 we will have achieved...	In year one we need to...	Link to four strategic aims...
<b>Moving to a paperless and digital first approach</b>	A process which can primarily be managed online - a 'digital first' delivery of services (see below, on digital exclusion).	Form a cross-organisational project team, assess the changes needing made, carry out a risk and impact assessment (including on the issue of access), set in place a four-year plan, and implement quick wins.	Deliver Innovate
<b>Developing new rules for a digital age</b>	New rules which reflect a digital and paperless focus in operations and engagement with the profession.	Scope changes to the rules which will be required alongside the project above.	Deliver Innovate Influence
<b>Increasing our online offering of guidance, training and outreach</b>	A 'digital first' approach to first-tier complaints, training, guidance, and outreach to better deliver the right messages, at the right time, to improve outcomes for users of legal services. Our social media presence will increase.	Start the development of a bank of content for outreach work. Start to create video and podcast content on the main legal practice areas for complaints. Scope digital options to help clients avoid common issues leading to a complaint. Move to greater use of LinkedIn to reach out direct to lawyers.	Innovate Prevent Influence
<b>Investigating Artificial Intelligence and Big Data</b>	Effective tracking of Artificial Intelligence (AI) and 'Big Data' use in law firms, regulation and complaints to ensure we understand the risks and benefits for public, profession, and for use in complaints.	Attend one significant event on AI and/or 'Big Data' in use within the legal sector. Identify those bodies in the Ombudsman Association and other networks investing in this area. Identify the uses of AI in mediation.	Innovate Influence
<b>Preventing digital exclusion</b>	Demonstrable evidence that our drive to digital does not impact those excluded from digital means for whatever reason, as informed by our risk and impact assessments.	Ensure appropriate alternatives are in place through use of project plans and relevant sign off.	Deliver



### 3.26 People:

Theme	By the end of 2024 we will have achieved...	In year one we need to...	Link to four strategic aims...
<b>Refining our package and reward</b>	An employment package, pay and culture which attracts and retains staff, with a focus on enabling people to deliver results whilst allowing appropriate flexibility for us to be ourselves and for our other life commitments and goals.	Implement changes agreed from the 2019-20 review of flexible working. We will work with PCS and our trade union representatives on a pay deal.	Deliver Innovate Prevent Influence
<b>Refocusing our job design</b>	Role descriptions, training, and performance systems which value flexibility, adaptability and resilience alongside existing core skills.	Review our appraisal and performance system, for the start of the 2021 operational year. Develop flexible role descriptions for all new appointments.	Deliver Innovate Prevent Influence
<b>Exploring talent pipelines and markets</b>	A review of the markets from which we can attract talent which fits with our culture of wellbeing and performance.	Work with Scotland's development agencies to gain market data on legal/ complex customer complaints talent across Scotland. Assess the viability of a graduate programme.	Deliver Innovate Prevent Influence
<b>Providing positive career pathways</b>	More visible career pathways, showing routes to promoted, managerial or technical specialist roles, and trying to offer maximum opportunity in an inclusive way (including split roles and secondments).	Finalise our succession and workforce plans, and publish information to staff on existing pathways, while consulting on future options.	Deliver Innovate Prevent Influence
<b>Delivering training, support and wellbeing</b>	Annual training, development and wellbeing plans to support the aspirations of this strategy and to develop the CVs of our team to give them exceptional transferable skills for internal roles, and ones within the regulatory and complaints sector, while supporting wellbeing.	Ensure a digital offering within the 2020-2021 organisational training plan. Include offerings on risk, change, project management and resilience in the programme. Have active participation in national mental health and wellbeing weeks.	Deliver Innovate Prevent Influence
<b>Creating an environment that supports performance</b>	An accommodation review (in line with lease renewal) and office environment review to support effective work and wellbeing.	<i>No action needed in year one – lease recently renewed and planned pause after minor refurbishment in 2019 – 2020 year.</i>	Deliver Innovate Prevent Influence
<b>Recruiting a new Board to continue the delivery of change</b>	The recruitment, working with the Public Appointments Team, of a new Board with the skills and aptitudes required to continue the ongoing delivery of this strategy.	Undertake a skills and diversity review of Board. Develop an action plan to access those skills, and attract a diverse audience. Develop a recruitment pack. Promote first tranche of posts.	Deliver Innovate Prevent Influence



### 3.27 Consumer Panel

- 3.28 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.
- 3.29 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.
- 3.30 The Consumer Panel is consulting on its priorities as part of the SLCC consultation, and welcomes comment. The planned priorities are:

Theme	By the end of 2024 we will have achieved...	In year one we need to...	Link to our four strategic aims...
Promoting consumer focused regulatory reform	Reform of legal regulation based on the Consumer Principles, the 'better regulation' agenda, and insight into and from service users and those experiencing vulnerability.	Influence the nature of the planned Scottish Government consultation on reforms to ensure it effectively engages consumers and users. Respond as a panel to the consultation, and encourage others to do the same.	Innovate Prevent Influence
Improving the complaints process	A better complaints system for all users which is accessible, provides clear and understandable information and decisions, and delivers a good customer experience.	Assist the SLCC with its review of template correspondence and text to ensure accessibility and the first year of a four year plan to improve customer experience across all the SLCC's services.	Deliver Innovate
Championing consumer voice, and consumer research	A greater voice for consumers in reform, legal services, and regulation by promoting and commissioning work, including research, which values the lived experience of individual service users. Produce practical insights from this for firms and organisations.	Run a 'service design' style workshop with legal services users on their expectations of legal services, how issues will be dealt with if they have a concern, and to publish the outcomes. Promote this as a resource to use in SLCC decision making, for firms, and in considering future work on 'service standards'.	Deliver Innovate Prevent Influence
Working across the consumer landscape	A role in wider reform of consumer affairs in Scotland, where there is a connection to legal services,	Responding to further debate on the Consumer Scotland Bill and the establishment of Consumer Scotland, with the aim of forming a strategic relationship once Consumer Scotland is formed. Consider further organisations we may wish to invite to sit on the Consumer Panel, or to engage with on specific areas of work.	Innovate Influence

### Our operating plan – including our other statutory duties - KPIs

- 3.31 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.

### Conclusion

- 3.32 We welcome comments on all aspects of our operating plan – what is included, what you may think is missing, or areas where you think we may be able to collaborate.

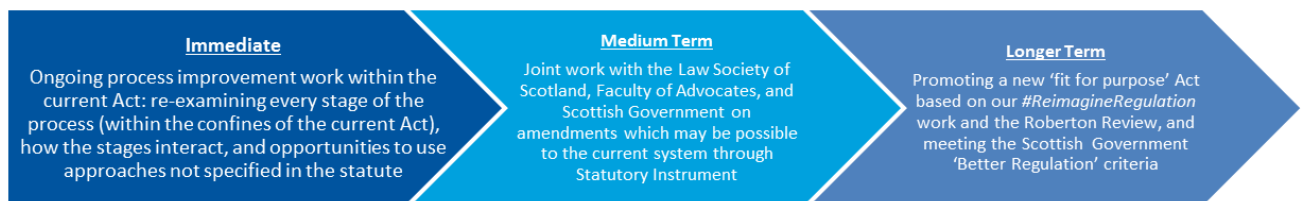
## 4 What increases costs in the environment we work in?

- 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.** The first two quarters of 2019/20 have shown a slightly lower incoming number of complaints than expected, and 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. We anticipate this award will be similar to last year, with most staff receiving a 3% increase, and this reducing to 2% and 1.5% for the more highly paid. We must also ensure a ‘Living Wage’ is paid to our staff, contractors and staff within our suppliers. These factors create an inflationary pressure in excess of CPI.
- 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

professions 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 request and 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 **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.

4.13 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/>

4.14 Audit Scotland publish the outcome of their audits of our financial performance, and these are available on their website at: <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).

## 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.</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)

### *The complaints levy*

8.2 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.

8.3 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 operate a policy of discounting this levy where a firm has handled the complaint well, and taking into account various other factors.

8.4 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.

8.5 No change is proposed this year.

8.6 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*

8.7 **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.

8.8 No AR complaints have been received, although we have had several enquiries.

8.9 The AR has not yet achieved ‘authorisation’ under the 2010 Act, meaning there are no Licensed Providers (LPs).

8.10 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.

8.11 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. We gave details of how the costs were calculated.

- 8.12 However, after another year with no substantive progress apparent, we are reducing the levy further to a notional amount to represent low costs. However, 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.
- 8.13 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.
- 8.14 This levy will be collected.
- 8.15 **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).
- 8.16 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).

- 8.17 **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.
- 8.18 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.
- 8.19 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.
- 8.20 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.

## 10 Income

- 10.1 The SLCC has based income on:
- Anticipated income from the **general and AR levies**. This is forecast to be £3,859,581 for 2020 - 2021.
  - Anticipated income from the **approved regulator levy**. This is forecast to be £3,000 for 2020 - 2021.
  - 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.
  - 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.

## 11 Apportionment of the levy

- 11.1 Over the last two years we had been in discussion on how the levy was apportioned – by this we mean the amount different groups of lawyers pay.
- 11.2 Following consultation, last year we froze levies for the majority of the profession, but increased them for principals and managers in private practice.
- 11.3 This reflected a move consistent with two policy views held by the SLCC:
- a. **Polluter pays** – an aim to move more of the cost, and more of the incentive to improve, onto business owners. This is the group who benefit from the profits of the business and have the

greatest ability to influence the quality of services. They are also the people who can influence how the firm responds when a complaint is raised with it, before it comes to the SLCC.

- b. **Entity regulation** – a move to consider the business unit delivering services more than individual solicitors.

- 11.4 In our public consultation, few issues were raised on this particular issue. However, over the course of the year various conversations have raised a concern about the possible impact of this on businesses. No evidence has been presented.
- 11.5 Also contributing to the new focus on entities and polluter pays was the increase we made last year to the complaints levy. This was increased to £5,000, and a new policy was introduced making it more likely the full levy would be charged. This levy is applied where a complaint is upheld and the firm did not respond effectively at first-tier or did not engage appropriately with the SLCC during the course of the investigation.
- 11.6 Again, no comments were received in response to this in last year’s consultation.
- 11.7 The changes last year were significant, and their impact is still working through the system. There was therefore discussion as to whether to maintain the current polluter pays emphasis, or shift the cost model even further that way.
- 11.8 In parallel to this, we discussed that the main source of cost increases this year are inflationary (rather than linking to any type of work or group of lawyers), at a rate slightly above CPI. The aim is to deal with the increase in complaints being predicted through process efficiency work, and not cost increases through the levy.
- 11.9 Based on these two factors, the decision was that this year increased costs should be met by an increase across all lawyers. This maintains the focus on polluter pays, but does not move further in that direction.
- 11.10 However, we welcome views on this, and may consult on further changes next year. By that time we should have a better understanding of whether the move is impacting first-tier complaints handling and engagement with the complaints process, or whether further focus needs bought to those issues.

## 12 Issues we would especially value your feedback on

- 12.1 We value feedback on all aspects of this consultation.
- 12.2 We are interested in views of the strategic aims, internal priorities and values, as well as the success indicators we set out (Section 2).
- 12.3 Stakeholders may wish to comment on the themes of work anticipated over the four years, and the specific delivery and projects planned for year one (Section 3).
- 12.4 The Consumer Panel, and the SLCC, would value feedback on the Panel's priorities for the next four years (also Section 3, with the relevant section starting at paragraph 3.27).
- 12.5 In particular, we hope to gather further comments on the general levy, and any ongoing view how it is apportioned among different professional groups (Section 6).
- 12.6 We are open to ideas on further efficiencies (Section 5), or ways to improve our service.
- 12.7 We'd value views on how a consensus might be built around the Fit for the Future recommendations to unlock the benefits of the more efficient and effective system it proposes.
- 12.8 The finalisation and the detailed scheduling of projects are carried out post-consultation in April and May 2020. This lets us take account of the consultation responses and to prepare for the 1 July 2020 start of the business year. We are grateful for offers of partnership working or involvement, and will work with interested parties after the consultation to incorporate offers into the final plan.

## 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
	<b>3,859,581</b>

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
<b>Total from Levy</b>	<b>3,993,181</b>

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

<b>Contribution to SLCC Reserves</b>	<b>14</b>
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## Breakdown and comparison of expenditure and levy

### Proposed Expenditure

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

### 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%
<b>Total Indirect Staff Costs</b>	<b>74,662</b>	<b>74,500</b>	<b>162</b>	

### 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%
<b>Total Expenditure</b>	<b>903,071</b>	<b>831,950</b>	<b>71,121</b>	

<b>Total Costs</b>	<b>3,993,167</b>	<b>3,719,950</b>	<b>273,217</b>	<b>7%</b>
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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
		<b>12,605</b>	<b>3,859,581</b>

## Appendix 2: Abbreviations and technical terms

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