



Neil Stevenson
Chief Executive
Scottish Legal Complaints Commission
The Stamp Office
10-14 Waterloo Place
Edinburgh
EH1 3EG

Our Ref: KL/LJ/RB
Date: 12 March 2019

Dear Neil,

SLCC OPERATING PLAN AND BUDGET 2019/20

Thank you for your letter of 31 January and for providing us with a copy of your proposed operating plan and budget. These documents have been considered and discussed by the Law Society's Board and Council.

It is imperative that Scotland has an effective and efficient body for the handling of complaints against legal professionals. Overall complaints numbers remain low in the context of the number of transactions carried out by solicitors in Scotland. Indeed, there are now fewer complaints compared to the previous decade. Our own extensive public research shows extremely high levels of confidence and trust in the Scottish legal profession amongst consumers, especially when compared to similar research in other parts of the United Kingdom. The debate around complaints handling must always be seen against that positive backdrop. Given this, it is wrong to suggest complaints have been increasing over the long term.

Clients rightly depend on both the SLCC and the Law Society to take action when the service they receive does fall below an acceptable level or when a solicitor's behaviour breaches the high professional standards expected. That is why it is so important for the SLCC to have an unrelenting focus on its core complaints handling role.

With an income of over £3 million for the handling of around 1,000 new complaints a year, the SLCC already benefits from having substantial resources at its disposal to fulfil its important statutory responsibility. With that level of funding, the SLCC should be dealing with complaints quickly and effectively.

Given it is ultimately the consumers of legal services who must fund the costs of regulation, including complaints handling; and the need to maintain a Scottish legal sector which can compete robustly in the wider legal services market, the SLCC must ensure every penny is spent wisely.



Given this, we are extremely frustrated that the SLCC has chosen to present a further major increase in its cost base. The proposals put forward by the SLCC must be seen in the context of previous years' budgets. The suggested budget put forward represents the third consecutive, above inflation, increase in the core levy which must be paid by solicitors. Against an uncertain and potentially turbulent economic backdrop, this is unreasonable and wrong.

The current lack of effective oversight or control means the SLCC remains free to charge whatever it wants, irrespective of economic or market conditions. This has been shown by the decision to press ahead with substantial rises to the levy in 2017 and 2018, despite the concern and opposition expressed, not just by the Law Society but by other organisations as well as Members of the Scottish Parliament. The experience of the last few years means there is no confidence in the profession that the SLCC is genuinely open to the arguments presented or to amending their plans in response to its consultation.

This overwhelming concern arises from the sheer scale of the rises seen. In 2015/16, the SLCC had a total income of £2.704m. If your proposed budget for 2019/20 is agreed then the estimated total income of £3.719m will represent a rise of almost 40% in just four years. By any measure, this represents an extraordinary increase in costs, with the legal profession and clients having to fund an extra £1m of spending.

These figures become starker when broken down to the cost for individual solicitors. The SLCC's proposed budget includes a solicitor levy of up to £494. The financial memorandum that accompanied the legislation creating the SLCC in 2007 set out a model with an annual levy of £120. This budget means some firms could end up paying up to four times as much as when the SLCC was conceived and up to 56% more than just three years ago. This compares to a 15% fall in the number of complaints received between the SLCC's first full operating year of 2009/10 and 2017/18.

This leaves the profession paying more for the SLCC to deal with fewer complaints with no correlation between the rising costs and improved performance.

The SLCC consultation specifically seeks views on how this large and rising budget should be shared across the legal profession, with two different levy models presented. However, this fails to recognise that, under both scenarios, the legal profession and its clients will have to bear the brunt of another above inflation budget.

For example, a sole-practitioner in private practice will see a SLCC cost rise of 9% under the first model and 28% in the second model. A firm of two partners and five solicitors would see a cost rise of 9% in the first scenario and 8% in the second. In the context of a highly competitive market and an extremely uncertain economic backdrop, neither of these cost rises are acceptable.

Many parts of the profession, both private practice and in-house, have to work to fixed budgets. Rising costs of compliance, including payments to the SLCC, therefore have to be met by cutting costs elsewhere.



It is inevitable that different solicitors will prefer a cost model that minimises the cost burden on them and their part of the profession. However, as the professional body for all solicitors with a public duty to act in the interests of the whole profession, our prime concern is to address the unrelenting and disproportionate rise in the overall costs of complaints handling.

Our focus must be on working together on identifying ways of reducing complaints numbers and addressing the core issues which give cause to complaints. Our recent joint session involving our two organisations' management teams provided a useful basis on progressing this work. We look forward to continuing that.

In terms of delivering some specific savings, we are encouraged money will be saved from the office lease which will come into effect this year. We were also pleased to see savings being achieved in terms of pension and other office costs.

The draft operating plan anticipates "further efficiencies in our cost base and operating practices, based on what has been successful elsewhere". The SLCC should set out how it is looking to learn from best practice elsewhere and what particular areas have been identified to bring additional efficiencies. It is not clear whether the operating budget has included assumed savings that relate to such efficiencies.

We also take issue with the approved regulator levy. You will recall this formed a significant part of our operating plan and levy response from last year. Like you, we remain frustrated that another year has passed without the Law Society being authorised as an approved regulator for new licenced legal service providers (LLSP). It remains important that all partners work together to deliver on the intentions of the 2010 Act.

Given the status of the Law Society as an approved but not yet authorised regulator of LLSPs, we challenged the rationale for the SLCC introducing a £20,000 approved regulator levy last year. This was even more questionable given the grant provided by the Scottish Government to assist in the SLCC's set up costs.

As you know, we cannot receive or determine any license applications, let alone undertake further regulation of such entities. This has been the case for the duration of the period since the last SLCC budget consultation. There could not have been any complaints made against the Law Society in relation to our status as an approved, but not authorised, regulator of LLSPs. Given this, the SLCC should explain what the previous year's £20,000 has been spent on. We also disagree with the need to levy a further £8,000 as proposed and, as such, the SLCC budget should be amended to propose a nil approved regulator fee.

Finally, we continue to urge close working with the SLCC and officials at the Scottish Government to deliver reforms to the complaints handling process which could be delivered by way of secondary legislation. Given the widespread view that the current complaints system is overly and unnecessarily complicated, a point rightly highlighted by



Esther Roberton in her recent report, we continue to believe this work needs to be a high priority for 2019.

Not only will this ultimately create a more streamlined set of processes for the benefit of the public and the profession, we would expect this to bring a degree of cost saving to the SLCC. The proposed budget and large rise in costs for this coming year only serves to underline the importance of this joint effort. We remain fully committed to this project and look forward to continuing our strong partnership approach with the SLCC in this area so that, collectively, we can deliver these improvements during the course of this year.

Yours sincerely,

A handwritten signature in black ink that reads "Lorna B Jack".

Lorna Jack
Chief Executive