

Resolving Complaints | Improving Practice | Inspiring Confidence

Our budget for 2018 to 2019

Complaints handling which is:

Independent | Fair | Impartial
Accessible | Efficient | Effective



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1 Introduction

- This document sets out the SLCC's budget and levies for the operational year 2018/19.
- The budget is aimed at resourcing the work required for:
 - the current volume of complaints against lawyers
 - the implementation of new responsibilities under the Legal Services (Act) 2010
 - our contribution to the goals of the Scottish Government's National Performance Framework
 - the third year of work under our Strategy for 2016 to 2020.
- The strategy sets out the SLCC's statutory functions, gives details of the complaints process, describes our five main strategic priorities, defines our values, outlines the environment we are operating in, provides context to the way we operate and explains why we selected certain priorities for the four year period covered. More details on our strategy are available at: <https://www.scottishlegalcomplaints.org.uk/about-slcc/our-purpose.aspx>
- A consultation on the budget took place, as required by statute, between 18 January 2018 and 3 March 2018, with responses published on 29 March 2018.
- This year all funding for projects and initiatives is the same as, or less than, the last two operating years. After two year's high expenditure on legal fees due to the Law Society of Scotland's legal challenges we are now in a position to reduce legal costs. However, a 5.2% increase in budget is proposed. This equates to a levy increase of 8.5%, as this year marks the end of the subsidising of levies from reserves. The key driver of cost is the ongoing increase in complaints numbers and more cases progressing to the later stages of the complaints system. Any rise in costs is unfortunate, and full details of the drivers of cost and key areas of expenditure are provided later in this document.
- The budget is presented in **Appendix 1**. The Operating Plan for the year, which we also consulted on, is finalised after the budget process is complete.
- Acronyms or technical terms we use are explained in a glossary at **Appendix 2**.

2 Our operating focus

- 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. Our performance is monitored regularly by our Board.
- How we deal with legal complaints is shaped by several factors – the incoming number of complaints, how these complaints are categorised, whether they pass the first stages of our process, whether an agreed resolution is achieved or formal determination required, and whether they

are appealed. We have to respond to a demand-driven case load (over 1,150 incoming cases a year) and have a statutory obligation to have adequate resource to process that workload.

- Information about our core processes is available on our website at: <https://www.scottishlegalcomplaints.org.uk/making-a-complaint/complaints-process.aspx> and information on our performance can also be found on our website at: <https://www.scottishlegalcomplaints.org.uk/resources/annual-report-accounts.aspx>
- We have a range of other statutory functions which must also form part of our annual priorities. These include: giving advice on complaints; issuing best practice guidance; monitoring trends; investigating 'handling complaints' which look at how the professional bodies (RPOs) deal with conduct complaints; monitoring the effectiveness of the Client Protection Fund and Master Policy; and supporting our statutory Consumer Panel.
- 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). Finally, we have a small amount of project work we undertake each year - the work and projects chosen are drawn from our strategy. This accounts for around 1-2% of our direct costs (for example, a payment for a product, service, contractor or license to deliver the project which is met from our budget), and a small amount of staff time.
- A number of this year's proposed projects have a consumer focus. The feedback we collect from lawyers and consumers shows that consumers are relatively less aware of our services and need more support to engage in the process effectively. However, it is important to emphasise that projects which are based on trends and aimed at improving confidence in the sector have benefits for both consumers **and** lawyers. Academic research has shown that this also improves economic sustainability and growth.
- In taking these projects forward, we will try wherever possible to work collaboratively with stakeholders including consumer groups and the RPOs. This helps us access expert knowledge and ensures that costs and duplication of work are minimised.

3 The environment we are working within – drivers of cost

- **The environment in which we operate continues to change.** In our consultation we set out the factors that are increasing the cost of our operations.
- **We saw a significant increase in complaints in 2015/16 (12.2%) and complaints increased again in 2016/17 (2.1%).** Additionally more complaints proceeded further into our process.
- **This year we have seen a further increase in complaint numbers (5.4%).** At the end of Q2, as reported in our consultation, we had received 596 incoming complaints, compared to 549 in the same period last year, an 8.6% on the 'year to date' position. We noted that last year the

increase in incoming complaints had slowed in the second half of the year. We are seeing this again, and by the end of Q3 we have received 930 incoming complaints, compared to 882 in the same period last year (a 5.4% increase 'year to date').

- **This means we are currently on track for a year end position showing a 20% increase in work over three years, as well as meaning the best prediction of future work is that complaints will continue to rise further.** It is recognised this trend prediction could change, but prudent budgeting means we must take account of the best data available at the time of decision.
- **This year we undertook work, including discussions with the RPOs, to look at why a long-term and significant rise of complaints might be occurring.** No single factor provides clear statistical evidence.
- **Overall, however, the complexity of both the legal requirements around complaints, and also of the underlying transactions being complained about, makes the SLCC's work a resource-intensive process.** For example the large number of tasks to be undertaken, at 'eligibility' – the part of our process which ALL complaints are required to go through and which utilises the majority of our staff resource (and so had the highest cost to us).
- **We wish to reduce further the time taken to resolve complaints.** Our board see this as a priority for both consumers and those subject to a complaint – for both parties a swift outcome is important. Our key stakeholders indicated this was also a high priority for them, in terms of how we focus our work. Resourcing in this plan is directed at this goal.
- **17 Court of Session Appeals and a Judicial Review led by the Law Society of Scotland have created huge costs for the SLCC.** At the time of publication one case is still outstanding, due to technicalities, and is still creating weekly legal costs and resource demands.
- **For the last four years we have been gradually reducing our reserves and the subsidy provided to the levy on the profession from our set-up funding and budgets.**
- **It had been predicted that 'Alternative Business Structures' may have been authorised in the 2016/17 business year** under the Legal Services (Scotland) Act 2010, but this did not happen, meaning our role in this is delayed and, for the seventh consecutive year, resources have been required without any recovery.
- **The context of how the levy has changed since the SLCC was established in 2008 is also relevant.** In the nine accounting years since creation the levy has moved up or down every year but one. This reflects the statutory requirement to fund necessary work each year counterbalanced by work on efficiencies and ensuring the lowest practicable levy is set. In some years the SLCC has been able to demonstrate its commitment to rigorous cost control by reducing the levy; however, as work increases rises have then been required.
- More information on all of these elements is available in the original budget consultation document.

4 Efficiency savings

- The SLCC is committed to finding efficiency savings each year. Where possible, these are used to offset the need for increases to the levy.
- **In 2015/16** we reported that we intended to bring the payroll function in-house and develop an online HR System. Both have now been actioned with associated financial savings and release of staff time.
- **In 2016/17** we focussed on further development of our case management and records management systems which will drive further improved in-house behaviours and efficiencies. We have not replaced a departing Senior Management Team member, reallocating duties to existing staff, to find further efficiency in our staffing budget.
- **In 2017/18** we restarted various efficiency pilots approved in September 2016, but put on hold while we awaited the outcome of the litigations taken by the Law Society of Scotland. Now the court has ruled in the SLCC's favour, and workflows are returning to normal, work on these is underway with external support evaluating the efficiency impact. Although it is currently only Q2 of this financial year, we are also anticipating savings on legal costs, and some saving on staff costs.
- **For 2018/19** we propose savings on office running costs, member expenses, training, staff expenses, case related legal fees, and communications. We recommended new lease arrangements to Scottish Ministers which will deliver an annual saving of over £16,000 in each of the next five years (from Sept 18). We negotiated potential pension savings, which will be monitored over the coming three years.

5 Headline details of budget

- Anticipated expenditure: £3,391,975 (previous year £3,223,700).
- Anticipated income: £3,406,199 (previous year £3,125,145).
- Anticipated funds/subsidy released from reserves: £0 (previous year £98,555).
- General levy (2007 Act): £386 full levy (previous year £356).
- Complaints levy (2007 Act) – there will be no change to the complaints levy.
- Approved Regulator Fee (2010 Act): £20,000
- Approved Regulator Complaints Levy (for an upheld complaint) (2010 Act): £10,000.
- Licensed Provider Fee (2010 Act): £5,000

6 Approach to budgeting

- In line with policy and past years the approach follows these steps:
 - The SLCC sets out anticipated expenditure based on its operational plan.
 - The general levy is then calculated on the basis of covering anticipated expenditure in full (i.e. nothing available from reserves).
 - The current year forecast outturn at December 2017 is reviewed, together with the results for the financial year to 30 June 2017. This provides an estimate of anticipated reserves at year end, and the implications for the general levy for 2018/19.
 - The proposed levy is set and the budget issued for consultation (including the complaints levy).
 - The draft budget is reviewed in April taking into account consultation responses and a further quarter's financial data.
 - The SLCC sets the final budget and lays it before Parliament by 30 April 2018.

7 Expenditure

- **Appendix 1** contains the summary of expenditure by line item, with a comparison to the previous year (i.e. the 2017/18 year). The overall budget shows an increase of 5.2%.
- The main drivers of this increased cost are:
 - Increased staff numbers to cope with a sustained increase in complaints, more complaints entering the later stages of the system, and allied to a strategic objective to reduce journey times significantly for all parties, which accounts for approximately £163,225.
 - The Scottish Government pay remit, which imposed a mandatory 3% pay increase on those earning £36,500 or below.
 - Reduced use of reserves compared to previous years, down from £98,555 to £0.
 - Annual salary and spine point increases which accounts for approximately £59,750.
- The SLCC has always sought to offset the impact of staff costs by ensuring where possible more efficient use of all indirect and non-staff resources. However a number of these costs will rise in 2017/18:
 - Property Costs – increased service charges have led to an anticipated 3% increase on the previous year.
 - IT Costs – increased staff numbers and associated licence costs account for a 6% increase.
- A key factor is the small funding base of the SLCC. With only around 11,500 practitioners paying a levy, even small increases in base operating costs have an immediate impact. A £12,000 increase in costs equates to an average £1 on each levy.

- Once our Operating Plan for the year is finalised, in light of consultation feedback, work will be managed within these constraints (although we anticipate more efficient and effective working may allow us to achieve more).
- The SLCC has again taken the decision to exclude a contingency provision from the 2018/19 budget. It is felt that the budgeting process and experience of previous years' outturns provide a sufficiently accurate forecast of anticipated spend. In the event of additional unforeseen expenditure requirements, the SLCC would have recourse to its remaining reserves.

8 Reserves

- Reserves are anticipated to be in the region of £400,000 at the start of the 2018/19 financial year. This figure is below the parameters set out in the reserves policy, which is constantly under review on the basis of risk and operating costs.
- 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 have clearly communicated that this subsidy will come to an end when reserves are around the target level.
- This point has now been reached this year. Meaning that although the budget had only risen 5.2%, the levy increase is higher as it is also accommodating the amount which was previously subsidised.
- A small return to our reserves was planned. This was aimed at assisting us to move closer to the desired level set in our reserves policy.
- The return to reserves is slightly larger than originally forecast, due to several recruitment exercises failing to identify appropriate candidates for roles – although this is a saving, the consequence was a lack of budgeted staff resource to handle the incoming complaints load, and thus reduced output which will need to be remedied.

9 Income

- The SLCC has based income on:
 - Anticipated income from the general levy. The bulk of this is from members of the Law Society of Scotland and is calculated on the basis of the number of practising certificates at the start of the current year. Final adjustments will be made in consultation with all the RPOs. The underlying calculations are based on the same approach as in previous years but it is proposed that the general levy increase by 8.5% for all categories of practitioner. **Appendix 1** sets out the detail.
 - Anticipated income from interest earned on deposits. This is forecast to be £30,000 for 2018/19 reflecting current and anticipated levels of investment return.
 - Estimated complaint Levy income of £25,000 has been recognised for budget purposes for the financial year 2018/19.

10 Apportionment of the Levy

- In last year's consultation three organisations responding raised the issue of how the levy was apportioned between different groups, and gave examples of the particular impact of the levies on certain groups.
- The 2007 Act requires a single levy to be set, but then allows the levy to be discounted for some groups.
- During the course of the following year the SLCC assembled evidence and models, and discussed these with stakeholders. As part of this year's consultation we also formally included questions, and different suggested models, for how the levy could be apportioned differently.
- In the responses to the consultation there was no consensus. Two groups supported an approach which would have seen their levy reduced, aligned to the low levels of complaints (and therefore SLCC costs) in those areas. One body suggested the apportionment debate simply diverted attention from overall costs. However, this body had expressed a view on the matter in their response to the previous year's consultation, which is why we raised it.
- In the absence of consensus, the SLCC decided this year the increase would be applied to all groups. Further debate is to be encouraged, and if an emerging consensus arises the SLCC can consider this each year as part of the budgeting process.

11 The Legal Services (Scotland) Act 2010

- The Legal Services (Scotland) Act 2010 creates new types of complaints, and new types of levies to fund the work.
- The Law Society of Scotland has now been 'approved' as a regulator. This is the legal point at which new levies are due (although we recognised the Society is not yet 'authorised').
- The SLCC is committed to ensuring that the costs of new regulators and business models do not impact on our main levies on lawyers. How 'approved regulator' costs are then passed on to the new market is a decision for those bodies.
- The consultation on our budget set out details of current and anticipated costs, and the principles and assumptions we had used in setting a budget and levies for these new areas of responsibility.
- Only one consultation response commented in any detail on these issues, suggesting that no fee should be charged (which is not viable, and would force the costs onto existing levies) or that costs were paid by the Scottish Government (which is outwith the control of the SLCC).
- The levies set under this legislation are noted in Section 5 (above).

Appendix 1: Draft Budget – 2018/19

Summary Budget

SLCC		scottish legal complaints commission slcc	
Summary Draft Budget			
1 July 2018 to 30 June 2019			
Expenditure		£	
	Staff	2,590,775	
	Non Staff	801,200	
	Total	3,391,975	
			
Actual Income and Levy			
			
Actual income including contribution to reserves		£	
	Levy from Law Society	-3,245,490	
	Levy from Faculty of Advocates	-79,971	
	Levy from Assoc of Commercial Attorneys	-738	
	Contribution from Complaint Levy	-25,000	
	Approved Regulator Levy	-20,000	
	Licensed Service Provider Levy	-5,000	
	Estimate of Interest Earned	-30,000	
	Total	-3,406,199	
Total Funds Available		-3,406,199	
			
Actual general levy set		£	
	Solicitors with 3+ years experience	386	
	Conveyancing Practitioner or Executry Practitioner 3+ years exp	386	
	Solicitors in 1st 3 years of practice	193	
	Practising Outwith Scotland	126	
	In-house Conveyancing Practitioner or Executry Practitioner	116	
	In-house lawyers	116	
	Advocates	183	
	Assoc of Commercial Attorneys	123	
Total actual levy required from each professional body		£	
	Law Society of Scotland	3,245,490	
	Faculty of Advocates	79,971	
	Association of Commercial Attorneys	738	
	Total	3,326,199	

Proposed Expenditure 2018/19

Budget 1 July 2018 to 30 June 2019

Summary of Expenditure	Budget 2018/19	Budget 2017/18	Variance	Variance
	£	£	£	%
Staff Remuneration and support costs				
<i>Direct Staff costs</i>				
Staff salaries and NIC	2,398,975	2,176,000	-222,975	-10.2%
Member salaries and NIC	123,000	138,000	15,000	10.9%
	2,521,975	2,314,000	-207,975	-9.0%
<i>Indirect Staff Costs</i>				
Staff training and development	25,000	25,000	0	0.0%
Member training and development	5,000	9,000	4,000	44.4%
Staff travel & subsistence	4,500	5,500	1,000	18.2%
Member travel & subsistence	12,000	15,000	3,000	20.0%
Other staff costs	22,300	23,500	1,200	5.1%
	68,800	78,000	9,200	11.8%
Total Staff Costs	2,590,775	2,392,000	-198,775	-8.3%
Non-staff costs				
Property costs	328,500	319,500	-9,000	-2.8%
Insurance	8,500	8,500	0	0.0%
Office running costs	50,700	53,700	3,000	5.6%
Direct case costs	174,500	231,500	57,000	24.6%
Communications	30,500	34,500	4,000	11.6%
IT Costs	90,000	85,000	-5,000	-5.9%
Corporate legal costs	45,000	20,000	-25,000	-125.0%
Audit Fees	21,000	20,000	-1,000	-5.0%
Special projects and research	12,500	15,000	2,500	16.7%
Capital Asset Depreciation	40,000	44,000	4,000	9.1%
Total Non-Staff Costs	801,200	831,700	30,500	3.7%
Total of staff and non staff running costs	3,391,975	3,223,700	-168,275	-5.2%
Total Costs	3,391,975	3,223,700	-168,275	-5.2%

General and Complaints Levy

2018/19 Proposed Annual Levy		scottish legal slcc complaints commission		
Category	Waiver	Practising Certificates	Annual Levy	Total Income
Solicitors with 3+ years experience	Annual Levy	6,721	386	2,594,306
Conveyancing Practitioner or Executry Practitioner 3+ years exp	Annual Levy	5	386	1,930
Solicitors in 1st 3 years of practice	Annual Levy less 50%	962	193	185,666
Conveyancing Practitioner or Executry Practitioner 1st 3 years of practice	Annual Levy less 50%	-	-	0
Practising Outwith Scotland	Discounted	852	126	107,352
In-house Conveyancing Practitioner or Executry Practitioner	Discounted	3	116	348
In-house lawyers	Discounted	3,068	116	355,888
Advocates	Discounted	437	183	79,971
Assoc of Commercial Attorneys	Discounted	6	123	738
		12,054		3,326,199

Appendix 2: 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, generally after having given the lawyer and/or firm the opportunity to consider the complaint first.
AR	Approved Regulator, regulatory body created by the Legal Services (Scotland) Act 2010.
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 Act	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.