

Resolving Complaints | Improving Practice | Inspiring Confidence

Our budget for 2017 to 2018

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 final Budget for the operational year 1 July 2017 to 30 June 2018 (**Appendix 1**) and provides information on the expenditure, general levy and complaints levy proposed for the 2017/18 financial year. It also notes recent changes in our operating environment.
- 1.2 A consultation on the budget, as required by our statute, was held between January and March 2017.
- 1.3 The budget supports an Operating Plan aimed at delivering the second year of work under our Strategy for 2016 to 2020. We consulted on the Strategy in January 2016, and the Board of the SLCC has confirmed its commitment to it during the preparation of this Operating Plan.
- 1.4 The Strategy sets out the SLCC's statutory functions, gives details of the complaints process, describes our five main strategic priorities, sets out our values, sets out 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>
- 1.5 Full details of the consultation and all responses are available at: <http://www.scottishlegalcomplaints.org.uk/consultation>
- 1.6 Acronyms or technical terms are explained in a glossary at **Appendix 2**.

2 Our operating focus

- 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 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 1,100 incoming cases a year, a 12% increase on last year rising to a 23% increase in the last six months) and we have a statutory obligation to have adequate resource to process that workload.
- 2.3 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 is also available on our website at: <https://www.scottishlegalcomplaints.org.uk/resources/annual-report-accounts.aspx>
- 2.4 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 oversee 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.

- 2.5 Over 90% of our staff work directly on tasks that deliver these 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 portfolio of project work which 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.
- 2.6 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 effective access to redress in a market also improves economic sustainability and growth.
- 2.7 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

- 3.1 The environment has also changed significantly since our last Operating Plan was published. In this section we set out the factors that are increasing the cost of our operations.
- 3.2 **We have seen a significant increase in complaints in 2015/16.** We reported a rise of 12% in our Annual Report for 2015/16 and in the last six months we have seen this increase further to 23%. The increase in complaints may relate to greater visibility of the SLCC, an increased volume of legal work over the last couple of years as we came out of the economic downturn, or to other factors. Whatever stage in the system complaints reach they have a cost (even if dismissed at prematurity or eligibility). The previous Operating Plan had been based on the prediction of a stable number of complaints, which had been consistent with our experience of the preceding two years. This rise in complaint numbers impacted on our costs and resource requirements in 2015/16, and we have released funds from reserves to meet this demand. However, continuing this level of funding from reserves is not sustainable.
- 3.3 **The increases now suggest a new trend, and we are predicting complaints may rise further in the second half of 2016/17 and on into 2017/18.** We have been working with an independent statistician to understand five years of complaints data and the best predictions we can make based on this. At the time of approval of the budget the best predictions that can be made suggest an environment of increasing complaints in the sector, and we must make budget predictions based on this. It is recognised this trend prediction could change (several lower months in a row would bring the future projection closer to a flat line) but at the time of setting our budget, and due to the gap between the levy being consulted on (January 2017) and the 18 months before the next levy is set and collected (July 2018), prudent budgeting means we must take account of the best data available at this time.
- 3.4 **We wish to reduce further the time taken to resolve complaints.** This was showing significant progress at the end of 2015/16 through improved working practices, but that progress was starting to stall due to higher numbers of incoming complaints, and is now impacted further due to some of the factors listed below. Our Board sees 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 where we focus our work.

- 3.5 **A key court ruling from the Inner House of the Court of Session also changed the landscape considerably.** The Court of Session ruled that ‘hybrid issues’, which had been a feature of legal complaints handling for the last 30 years, were not a valid ‘categorisation’ of a complaint. This had a significant impact. Firstly, we have had to communicate with several hundred parties about how their cases are affected, and as there is still uncertainty (see below) this has had to happen on more than one occasion. We have also seen an increased number of incoming enquiries, and increased demand for engagement with stakeholders and government, as the situation has developed. Our legal advice indicated that many cases part way through our process needed to be re-categorised, and although much of that work is now complete, the impact will be felt into 2017/18. Almost one month of normal workload (that is, complaints assessed and resolved) across 29 staff was lost, and, in a second month, production was 50% below normal rates. This has resulted in other work falling behind schedule, and we need to act to minimise delays for the consumers and lawyers involved in a complaint.
- 3.6 **Increased appeals and a judicial review relating to the above case are also increasing risk and projected costs considerably.** The SLCC and the Law Society of Scotland received differing legal advice on how to manage the impacts of the above court ruling. At the time of preparing this budget it means that we are facing seventeen Court of Session Appeals (more than the total number of appeals we received for the whole of 2015-16), and a separate Judicial Review. The costs of all this legal action will be significant. Depending on the outcomes we may recover some costs or have to pay further costs. As well as external fees to our legal advisers and counsel, this also creates a significant internal workload administratively and legally, and also in terms of communicating with affected parties, stakeholders and government. The SLCC must ensure that budgets are prepared to take account of a number of possible outcomes.
- 3.7 **The legal action also, unfortunately, creates a backlog of cases which have to be put on hold until such time as the court processes are worked through.** Our Case Investigators have been fully productive in the meantime, working on new complaints. However, we need to plan for working on the large volume of cases which are, currently delayed pending clarity from the Court of Session, avoiding further delay. The requisite additional capacity to address this cannot be quickly sourced – new Case Investigators require a six-month training lead, for example. As a result, the backlogs created by the above litigation represent a real challenge in resource planning.
- 3.8 **For the last four years we have been gradually reducing our reserves.** This was something stakeholders had encouraged, and was appropriate as the organisation increased its experience in budgeting and managing risk. This year, we propose another deficit budget, but have reduced the amount we are taking from reserves (£99k vs £145k last year). This means that even if all expenditure had remained static, we would have needed to raise an additional £46k from the levy in 2017/18. We have been transparent in previous consultations on what the ‘real’ levy would be if we were recovering full costs for that year, and the ‘adjusted’ levy on the basis of a ‘subsidy’ from reserves. Our reserves policy is to aim to have a minimum of 2 months operating costs available.
- 3.9 **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. We will need to await decisions in 2017/18 to see what preparations the SLCC may need to make.
- 3.10 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. Looking at the five year period since the 2012/13 levy, the increase proposed in 17/18 represents only a 5% rise over that whole period. A lower levy was possible in the intervening years due to rigorous cost control and efficiency work, use of reserves remaining from our ‘set-up phase’, and the delay of investment in projects which now cannot be

postponed further (for example, the urgent need for a website which meets current equality and accessibility guidelines). Our willingness to lower the levy in the recent past shows our focus on efficiency, reflecting the complaints volumes in the sector at the time, and budgeting only for the work required to dispense our statutory role.

4 Efficiency savings

- 4.1 The SLCC is committed to finding efficiency savings each year. Where possible, these are used to offset the need for increases to the levy.
- 4.2 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 implemented with associated financial savings and release of staff time.
- 4.3 In 2016/17 we are focussing on the further development of our case management and records management systems which will drive further improvements 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.
- 4.4 In the budget for 2017/18 we will continue to monitor staff numbers against workload and, if circumstances and journey time targets permit, will not replace any departing staff to manage down any excess.
- 4.5 There is also a focus on improving efficiency in our core process. This year we trained a number of staff in Lean Six Sigma (to 'yellow belt' standard). This is a technique which focusses on reducing waste in process and improving quality. A major project for the year was a review of every stage of our 'eligibility' process, including working with our external legal providers to test whether each step and the level of work undertaken was legally necessary – both under the Act and also the guidance which has come from Court of Session rulings on our work. Changes are now being implemented, including an amended approach to agree a summary of the complaint with those making complaints, which should help speed up the process.
- 4.6 Overall, however, the intricacy of the legal requirements around complaints, and the complexity of the underlying transactions being complained about, make this a resource intensive process.
- 4.7 For example, 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 has the highest cost for us) – there are a large number of tasks to be undertaken. Case Investigators must: review the complaint form, decide whether the complaint is premature, work with both parties to understand the issues being complained about, classify each issue as service or conduct, liaise on classification with the RPO, check whether each issue raised is within the relevant time limit (which is different for services and conduct issues), and test each issue against the three legal tests of 'frivolous, vexatious, and totally without merit'. They must seek comments from parties before issuing a final decision. The reasoning must be clear to all parties, and be able to withstand appeal to the Inner House of the Court of Session. All of this is prescribed in statute, and is just the first 'pre investigation stage' of the statutory process. In addition, and throughout this process, staff will be trying informally to conciliate the complaint where appropriate.

5 **Headline details of budget**

- 5.1 Anticipated expenditure: £3,223,700 (previous year £2,863,300).
- 5.2 Anticipated income: £3,125,145 (previous year £2,718,135).
- 5.3 Anticipated funds released from reserves: £98,555 (previous year £145,165).
- 5.4 General levy: £356 full levy (previous year £316).
- 5.5 Complaints levy – there will be no change to the complaints levy.

6 **Approach to budgeting**

6.1 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 2016 is reviewed, together with the results for the financial year to 30 June 2016. This provides an estimate of anticipated reserves at year end, and what can be made available to underwrite the general levy for 2017/18.
- 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 April 30 2017.

7 **Expenditure**

7.1 Appendix 2 contains the summary of expenditure by line item, with a comparison to the previous year (i.e. the 2016/17 year). The overall budget shows an increase of 12.6%.

7.2 The main drivers of this increased cost are;

- Increased staff costs to cope with a sustained increase in complaints allied to a strategic objective to reduce journey times significantly for all parties.
- The diversion of staff resources to cope with the ongoing impact of the recent appeal decision.
- Increased legal costs (case related, due to litigation coming out of previous court ruling) which have been currently estimated at £75,000.
- Reduced use of reserves compared to previous years, down from £145,000 to £99,000.
- Annual salary and spinal point increases which account for approximately £45,000.
- Increased corporate legal costs, whilst difficult to predict, which have been increased by a modest £5,000.

- 7.3 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 2016/17:
- Property Costs – increased service charges have led to an anticipated 3.6% increase on the previous year.
 - IT Costs – increased staff numbers and associated licence costs account for a 13.3% increase.
- 7.4 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. An £11,500 increase in costs equates to an average £1 on each levy.
- 7.5 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).
- 7.6 The SLCC has again taken the decision to exclude a contingency provision from the 2017/18 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 reserves.

8 Reserves

- 8.1 Reserves are anticipated to be in the region of £465,000 at the start of the 2017/18 financial year. This figure is within the parameters set out in the reserves policy which is constantly under review.
- 8.2 This position will change in 2017/18 as the SLCC intends to utilise £99,000 from reserves within the year. The SLCC is of the view that the current level of reserves provides a short term source of funding and helps restrict any proposed levy increases. The anticipated reserves position for 30 June 2018 will be in the region of £366,000. Reserves figures at both 30 June 2017 and 30 June 2018 may be subject to pension provision liabilities.

9 Income

- 9.1 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 12.5% be applicable across all categories of practitioner. **Appendix 2** sets out the detail.
 - Anticipated income from interest earned on deposits. This is forecast to be £30,000 for 2017/18 reflecting current and anticipated levels of investment return.
 - Complaint Levy income of £30,000 has been recognised for budget purposes for the financial year 2017/18. This figure was recognised for the first time in the year 2015/16 and is unchanged for 2017/18.

10 The Legal Services (Scotland) Act 2010

- 10.1 During the course of this year, or as part of next year's budgeting process, we may need to consult further on budget if the Law Society of Scotland (or another body) is granted 'Approved Regulator' (AR) status and starts licensing new 'Licensed Providers'.
- 10.2 This version of the budget contains no allowance for any fee that may, in due course, be generated if an AR is authorised, and likewise contains no spend allocated to set-up and operating costs for those new responsibilities which could fall on the SLCC if an AR is authorised.
- 10.3 The Legal Services (Scotland) Act 2010 creates new types of complaints, and new types of levies to fund the work. There are three new levies. Two levies will be paid by the actual regulator:

Approved Regulators:

<http://www.legislation.gov.uk/asp/2010/16/section/80>

- 1. An annual levy
- 2. A levy each time a complaint is passed to us and the SLCC upholds that complaint

One levy will be paid by the new types of business (Licensed Providers) that an AR will regulate.

Licensed Providers:

<http://www.legislation.gov.uk/asp/2010/16/section/81>

- 3. An annual levy (which is in addition to the levy on each solicitor within the Licensed Provider)

Each AR will need to make provision for the collection of this new levy from the Licensed Providers, per s.57(d) of the Act (which was amended by s.81 of the 2010 Act).

- 10.4 It is seven years since this legislation was passed, but as yet no AR has been created. However, as soon as a regulator is approved and authorised the SLCC will need to act quickly to develop policies and processes and ensure we are prepared to deliver our new statutory duties.

Appendix 1: Budget – 2017/18

Summary Budget

Summary Draft Budget 1 July 2017 to 30 June 2018		scottish legal complaints commission slcc	
Expenditure	£		
Staff	2,392,000		
Non Staff	831,700		
Total	3,223,700		
↓		↓	
Indicative Income and Levy (not underwritten by reserves)		Actual Income and Levy Underwritten By Reserves	
↓		↓	
Baseline income required to cover expenditure	£	Actual income including contribution from reserves	£
Levy from Law Society	-3,084,138	Levy from Law Society	-2,988,304
Levy from Faculty of Advocates	-78,750	Levy from Faculty of Advocates	-76,050
Levy from Assoc of Commercial Attorneys	-812	Levy from Assoc of Commercial Attorneys	-791
Contribution from Complaint Levy	-30,000	Contribution from Complaint Levy	-30,000
Approved Regulator Levy	0	Approved Regulator Levy	0
Licensed Service Provider Levy	0	Licensed Service Provider Levy	0
Estimate of Interest Earned	-30,000	Estimate of Interest Earned	-30,000
Total	-3,223,700	Total	-3,125,145
↓		↓	
Baseline General Levy	£	Contribution from SLCC Reserves	-98,555
Solicitors with 3+ years experience	368	Total	-98,555
Conveyancing Practitioner or Executry Practitioner 3+ years exp	368	Total Funds Available	-3,223,700
Solicitors in 1st 3 years of practice	184	↓	
Conveyancing Practitioner or Executry Practitioner 1st 3 years of practice	184	Actual general levy set	£
Practising Outwith Scotland	120	Solicitors with 3+ years experience	356
In-house Conveyancing Practitioner or Executry Practitioner	110	Conveyancing Practitioner or Executry Practitioner 3+ years exp	356
In-house lawyers	110	Solicitors in 1st 3 years of practice	178
Advocates	175	Conveyancing Practitioner or Executry Practitioner 1st 3 years of practice	178
Assoc of Commercial Attorneys	116	Practising Outwith Scotland	116
		In-house Conveyancing Practitioner or Executry Practitioner	107
		In-house lawyers	107
		Advocates	163
		Assoc of Commercial Attorneys	113
		Total actual levy required from each professional body	£
		Law Society of Scotland	2,988,304
		Faculty of Advocates	76,050
		Association of Commercial Attorneys	791
		total	3,065,145

Proposed Expenditure 2016/17

Budget 1 July 2017 to 30 June 2018		<small>scottish legal</small> <small>complaints commission</small> slcc		
Summary of Expenditure	Budget 2017/18	Budget 2016/17	Variance	Variance
	£	£	£	%
Staff Remuneration and support costs				
<i>Direct Staff costs</i>				
Staff salaries and NIC	2,176,000	1,901,000	-275,000	-14.5%
Member salaries and NIC	138,000	143,000	5,000	3.5%
	2,314,000	2,044,000	-270,000	-13.2%
<i>Indirect Staff Costs</i>				
Staff training and development	25,000	25,000	0	0.0%
Member training and development	9,000	8,000	-1,000	-12.5%
Staff travel & subsistence	5,500	6,500	1,000	15.4%
Member travel & subsistence	15,000	15,000	0	0.0%
Other staff costs	23,500	26,000	2,500	9.6%
	78,000	80,500	2,500	3.1%
Total Staff Costs	2,392,000	2,124,500	-267,500	-12.6%
Non-staff costs				
Property costs	319,500	308,450	-11,050	-3.6%
Insurance	8,500	7,750	-750	-9.7%
Office running costs	53,700	49,300	-4,400	-8.9%
Direct case costs	231,500	130,500	-101,000	-77.4%
Communications	34,500	35,500	1,000	2.8%
IT Costs	85,000	75,000	-10,000	-13.3%
Corporate legal costs	20,000	15,000	-5,000	-33.3%
Audit Fees	20,000	20,000	0	0.0%
Special projects and research	15,000	20,000	5,000	25.0%
Capital Asset Depreciation	44,000	77,300	33,300	43.1%
Total Non-Staff Costs	831,700	738,800	-92,900	-12.6%
Total of staff and non staff running costs	3,223,700	2,863,300	-360,400	-12.6%
Total Costs	3,223,700	2,863,300	-360,400	-12.6%

General and Complaints Levy

2017/18 Baseline Annual Levy to recover full costs				
				
2017/18 Proposed Annual Levy				
Category	Waiver	Practising Certificates	Annual Levy	Total Income
Solicitors with 3+ years experience	Annual Levy	6,842	356	2,435,752
Conveyancing Practitioner or Executory Practitioner 3+ years exp	Annual Levy	5	356	1,780
Solicitors in 1st 3 years of practice	Annual Levy less 50%	824	178	146,672
Conveyancing Practitioner or Executory Practitioner 1st 3 years of practice	Annual Levy less 50%	-	178	0
Practising Outwith Scotland	Discounted rate	816	116	94,656
In-house Conveyancing Practitioner or Executory Practitioner	Discounted rate	4	107	428
In-house lawyers	Discounted rate	2,888	107	309,016
Advocates	Discounted rate	450	169	76,050
Assoc of Commercial Attorneys	Discounted rate	7	113	791
		11,836		3,065,145
2017/18 Baseline Annual Levy to recover full costs				
Category	Waiver	Practising Certificates	Annual Levy	Total Income
Solicitors with 3+ years experience	Annual Levy	6,842	368	2,514,644
Conveyancing Practitioner or Executory Practitioner 3+ years exp	Annual Levy	5	368	1,838
Solicitors in 1st 3 years of practice	Annual Levy less 50%	824	184	151,616
Conveyancing Practitioner or Executory Practitioner 1st 3 years of practice	Annual Levy less 50%	-	184	0
Practising Outwith Scotland	Discounted rate	816	120	97,920
In-house Conveyancing Practitioner or Executory Practitioner	Discounted rate	4	110	440
In-house lawyers	Discounted rate	2,888	110	317,680
Advocates	Discounted rate	450	175	78,750
Assoc of Commercial Attorneys	Discounted rate	7	116	812
		11,836		3,163,700

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.
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 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	'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.