



Annual Budget Plan

(Abbreviated to 9 months)

For the Period

01 October 2008 to 30 June 2009

29 April 2008

Contents

Introduction	3
Why was the Commission set up?	3
Overview	3
Membership of the Commission	4
Responsibilities of the Members	4
Our Members	5
The Annual Budget Plan	7
Calculating the Levy	7
Projected Workplan	7
Complaint Levies	8

Introduction

The Scottish Legal Complaints Commission (hereafter the Commission) was set up by the Legal Profession and Legal Aid (Scotland) Act 2007 to investigate complaints made by members of the public about services provided by legal practitioners in Scotland. It operates wholly independently of the legal profession, and will launch on the 01 October 2008. It will be located in Edinburgh.

Why was the Commission set up?

Although certain bodies do exist to examine complaints about the legal profession – namely the Law Society of Scotland (LSS), the Faculty of Advocates (FoA), and the Scottish Legal Services Ombudsman (SLSO) – an inquiry was undertaken by the Justice Committee in the Scottish Parliament into Regulation of the Legal Profession. Aimed at addressing various public concerns about the system, the inquiry looked at the way the legal profession handles complaints. Whilst it concluded that it was in the best interests of Scotland that the profession should still regulate itself, it recommended that the system should be reformed to make it more accessible, acceptable and representative of the public interest.

As a result of the inquiry, the Scottish Executive agreed that change was required. The Commission has therefore been set up to modernise the legal complaints handling system, to ensure that any complaints against the legal profession are resolved quickly and effectively. It is a “one-stop shop” for complaints about the service given by legal practitioners in Scotland, where the problem cannot be resolved with the service providers themselves. Once it starts operating, complaints about the services received from solicitors and advocates will therefore be directed to the Commission rather than the LSS and the FoA.

Overview

The Commission is a neutral body, created under the 2007 Act to operate independently of the legal profession. Furthermore, although it has legal status, it is not to be regarded as “a servant or agent of the Crown”, and so is also independent from Government.

The Commission has both *public body* and *private body* characteristics. *Public* in the respect that it is not a Government department (or connected to one), and isn't staffed by civil servants, but is still subject to requirements relating to freedom of information, standards in public life, and The Human Rights Act 1998. And *private* in the respect that the Commission has responsibility for certain aspects of its own finances, such as setting its annual budget, and will not be funded by the public and instead will be funded by levies on the legal profession. These levies are paid by the various legal practitioners throughout Scotland to the LSS and the FoA who in turn pass the levies raised to the Commission.

Membership of the Commission

To further enhance its independent status, the 2007 Act places some requirements on the Commission as to how it is composed. In general, the Commission is made up of both non-lawyer members and lawyer members, and currently must consist of a person to chair it and 8 other members. These members are ultimately appointed by Scottish Ministers, and although the Ministers may change the number and balance of the members, they must always ensure that the majority (including the chairing member) are non-lawyer members. Membership of the Commission is for 4 to 6 years depending on the position held, and members can be removed by the chairing member (with the consent of the Lord President of the Court of Session) or disqualified for a number of reasons laid down in the 2007 Act.

Responsibilities of the Members

All members of the Commission are expected to act in the best interests of the Commission, and must respect and act in accordance with a number of requirements, including:

- The Legal Profession and Legal Aid (Scotland) Act 2007;
- The governance arrangements of the Commission, including the Scheme of Control;
- The declaration and registration of members' interest;
- The Commission processes, standards and rules;
- The Commission financial, operational and personnel policies.

Furthermore, because the Commission has an important function in serving the public in Scotland, its members are expected to follow the Seven Principles of Public Life set out by the Committee on Standards in Public Life. These are:

- I. **Selflessness:** Holders of public office should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.
- II. **Integrity:** Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties.
- III. **Objectivity:** In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merits.
- IV. **Accountability:** Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.
- V. **Openness:** Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

- VI. **Honesty:** Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interests.
- VII. **Leadership:** Holders of public office should promote and support these principles by leadership and example.

Members of the Commission are also expected to declare any interest that may conflict with their duties, and must not hold any political post or engage in any political activity or matter that directly affects the Commission.

Members also abide by the Scottish Legal Complaints Commission Code of Conduct for Members.

Our Members

Non-lawyer Members

Jane Irvine (Chairing Member)

Jane Irvine has been the Scottish Legal Services Ombudsman since April 2006. She is a specialist in consumer complaints having held a number of positions as a mediator, arbitrator and adjudicator of consumer complaints. Between 2001-05 she was HM Lay Inspector of Constabulary, and considered the handling of complaints against the police in Scotland. She later prepared a report on modernising police complaint and conduct systems for the Justice Minister. She also sat on a range of disciplinary tribunals and currently sits on the Discipline Board of the Institute of Actuaries.

“This new Scottish Commission is an important body. It will provide a modern system for resolving complaints about legal services that both the profession and the public can have confidence in. I am delighted to have been appointed with such a strong group of commissioners who bring with them a diverse and exceptional range of skills and experience.” **Jane Irvine**

Douglas Watson

Douglas Watson was a police officer for 30 years and is currently an adult protection development officer for Edinburgh, Lothian and Borders Executive Group. Mr Watson has previously been a chairing member of the Child Protection Committee, Scottish Borders Council and Edinburgh Drug and Alcohol Action Team. He was a lay Committee member for the Law Society of Scotland and is a Sessional Inspector with the Social Work Inspection Agency.

Linda Pollock

Linda Pollock has had a broad based career in the NHS with clinical, teaching, research and management experience. She was an Executive Nursing Director until 2006, and interim Board Nurse Director (2002-2003). Her last role, before leaving the NHS, was a full time secondment as the Chief Nursing Officer's Advisor for Nurse Prescribing. Dr Pollock was a part time nurse member of the Mental Welfare Commission (1997-2005) and is currently a registrant member of the Nursing and Midwifery Council Appointments Board.

George L Irving CBE

George Irving was Director of Social Work North Ayrshire Council and during the period 1999-2000 he served as President of the Association of Directors of Social Work (Scotland). From 2001-2006 he was Chair of NHS Ayrshire and Arran. He led the National Support Team, Management of Offenders 2005-2007 and is currently a Visiting Professor to Glasgow Caledonian University School of Health and Social Care.

Ian Gordon OBE, QPM, LL.B (Hons)

Ian Gordon is a retired Deputy Chief Constable of Tayside Police. He is currently an associate professor in policing for Charles Sturt University (Australia). He was Chair of the Association of Chief Police Officers in Scotland (ACPOS) Professional Standards Business Area and Vice-Chair of ACPOS General Policing Business Area.

Lawyer Members

Alan Paterson

Alan Paterson is Professor of Law and Director of the Centre for Professional Legal Studies at Strathclyde University, an independent "Think Tank" on the Scottish Legal System. He has researched in, and published on, the regulation of lawyers and the provision of public legal services for over twenty years. Although he is qualified as a solicitor in Scotland, Professor Paterson has never practised. He served as a co-opted member of the Council of the Law Society between 2001-2008. He is currently a research adviser to the Scottish Legal Aid Board, and a member of the Judicial Appointments Board.

David Smith

David Smith has been a partner in Shepherd and Wedderburn for 33 years. He has spent over 20 years as part of the firm's management board and was Chairman between 1999-2005. Mr Smith is a senior commercial property lawyer. Since 2004 he has been the Client Relations Partner within Shepherd and Wedderburn and since 1998 he has chaired the firm's Compliance Committee, which monitors professional indemnity claims, client complaints and risk management issues.

Margaret Scanlan

Margaret Scanlan is an accredited specialist in family law at Russells Gibson McCaffrey. She has also tutored in family law at Glasgow Caledonian University. Mrs Scanlan was a member and latterly Deputy Chair of the Scottish Legal Aid Board between 1997-2007. She has also been Director of the Legal Defence Union between 1998-2002. Mrs Scanlan was a founder member of both Strathkelvin Women's Aid and the Family Law Association. She held the post of Chair of the latter between 1992-93.

David Chaplain

David Chaplain has been senior partner in Anderson Fyfe for the last 15 years and is a specialist in insolvency law. He has been the Client Relations partner for his firm for ten years. Mr Chaplain advises in pre litigation resolution of commercial disputes for clients. He was a member of the Education Committee of the Royal Faculty of Procurators in Glasgow during 2004-05.

The appointments to the Commission were regulated by the Office of the Commissioner for Public Appointments in Scotland and subject to consultation with the Lord President of the Court of Session.

The Annual Budget Plan

The Annual Budget Plan has been constructed to represent the costs that will be incurred in the inaugural nine month operational period of the Commission. This inaugural period covers from 01 October 2008 to 30 June 2009. This period has been chosen following discussions with the LSS and the FoA who are required to raise the levy fees from their members. This inaugural timescale allows the Annual Budget Plan to be consulted on by stakeholders in January and laid before the Scottish Parliament in April. It allows the LSS and the FoA to notify, invoice and receive payments from their members in time before the end of the Commissions' financial year in June.

The budget has considered all known operational costs which have resulted in the budget total. The Annual Budget Plan calculations are attached in Annex A and Notes to the Annual Budget Plan are attached in Annex C. The Notes to the Annual Budget Plan also includes a Main Caveat which should be read in conjunction with the Annual Budget Plan.

Calculating the Levy

The budget total in turn is divided by the number of legal practitioners in Scotland to produce a base figure. The number of legal practitioners has been supplied by the LSS and the FoA and is 10,586 for the Year 2008/2009 budget forecast.

This base figure is then used to calculate the Annual Levy and any levy waivers to the various categories of legal practitioner in Scotland. These categories have specific levy waivers for each group. These have been determined after consultation with the LSS and the FoA.

Category of Practitioner	Levy or Waiver
Advocate	The Annual Levy minus 19%
In house Solicitors	The Annual Levy minus 66.6%
Solicitors who have been in private practice for less than three years	The Annual Levy minus 50%
Solicitors who have been in private practice for three years or more	The Annual Levy

These calculations are attached in Annex B.

Projected Workplan

The Projected Workplan informs the budget with regards to number of personnel, operational costs, and statutory costs that are included in the budget and are required to run the Commission. In attempting to create a Projected Workplan Members of the Commission have looked at the number of relevant cases that have been dealt with by the LSS and the FoA in recent years. The number of relevant cases is approximately 3,000 cases per annum. The Commission has used this figure as a basis for calculation of costs in the budget.

It should be noted that the Commission has decided it will not handle cases that are currently being dealt with by either of these bodies (historical cases) and will only accept cases from 01 October 2008.

Given the process of establishing and progressing a complaint coupled with the abbreviated nine month period for the inaugural year it is envisaged that the SLCC could expect to handle in the region of 1,500 to 2,250 cases to the end of June 2009.

Complaint Levies

Complaint Levies are incurred by practitioners when the Commission upholds a service complaint against a practitioner. The Rules of the Commission recognise the different circumstances in which a complaint may be upheld and will apply Complaint Levies on the following basis:

For the period 01 October 2008 to 30 June 2009**

- a) mediation takes place in relation to the complaint and the outcome of the mediation is accepted by both the complainer and the practitioner, the Complaint Levy is set at £200.
- b) a settlement proposed as respects the complaint by the Commission under section 9(2) of the 2007 Act is accepted by both parties and upholds at least one element of the complaint against the practitioner, the Complaint Levy on the first settlement is set at £250. The Commission reserves the right to increase the Complaint Levy for a second and any further settlements within a period of 24 months of the first settlement to £350. If no element of the complaint is upheld, the Complaint Levy is set at £0.
- c) a formal determination under Section 9(1) of the 2007 Act will result in a Complaint Levy on the first determination at £400. The Commission reserves the right to increase the Complaint Levy for a second determination within a period of 24 months of the first determination at £600 and on third and any further determination within a period of 24 months of the first determination at £1,000.

** Please note that on earlier versions of this document, this date was shown as 31 March 2009. This was incorrect. As noted in the Minutes of 21 April 2008, item 6.1, the Members agreed that the financial year would run from 1st July to 30th June.

SLCC Annual Budget Plan as at 29 April 2008

Note	Job Title	Annual Salary	Nos	First Year duration in months	9 months pro rata	Add NI, etc. (%)	Gross 9 months	VAT	Total - 9 Months to 30 June 2008	
1	Chief Executive	£70,000	1	9	£52,500	1.29	£67,725		£67,725	
2		£64,993	1	9	£48,745	1.29	£62,881		£62,881	
2		£50,000	1	6	£25,000	1.29	£32,250		£32,250	
2		£46,397	4	9	£139,191	1.29	£179,556		£179,556	
2		£56,000	1	9	£42,000	1.29	£54,180		£54,180	
2		£34,405	6	9	£154,823	1.29	£199,721		£199,721	
2		£34,405	6	8	£137,620	1.29	£177,530		£177,530	
2		£34,405	4	7	£80,278	1.29	£103,559		£103,559	
2		£34,405	4	6	£68,810	1.29	£88,765		£88,765	
2	Managerial, Administrative, Communication, Secretariat and Investigation Staff	£34,405	1	9	£25,804	1.29	£33,287		£33,287	
2		£26,344	2	7	£30,735	1.29	£39,648		£39,648	
2		£26,344	2	6	£26,344	1.29	£33,984		£33,984	
2		£23,444	2	6	£23,444	1.29	£30,243		£30,243	
2		£43,046	1	6	£21,523	1.29	£27,765		£27,765	
2		£43,046	1	9	£32,285	1.29	£41,647		£41,647	
2		£21,555	4	6	£43,110	1.29	£55,612		£55,612	
2		£29,531	1	9	£22,148	1.29	£28,571		£28,571	
2		£26,344	1	9	£19,758	1.29	£25,488		£25,488	
2		£15,000	1	9	£11,250	1.29	£14,513		£14,513	
			44		£1,005,367		£1,296,923		£1,296,923	
3	Chairing Member	£20,000	1	9	£15,000	1.25	£18,750		£18,750	
4	Other Members	£16,000	8	9	£96,000	1.25	£120,000		£120,000	
5	Members expenses and allowances						£27,000		£27,000	
							£165,750		£165,750	
							12 months	9 months		
	Communications/Website/Annual Report						£70,000	£70,000	£12,250	£82,250
7	IT (including telephony)						£65,000	£65,000	£11,375	£76,375

Annex A.

8	Rent /Service Charges//heating/lighting	£254,091	£190,568	£33,349	£223,918
8	Rates	£72,544	£54,408		£54,408
	Incidentals (stationery, etc.)	£30,000	£22,500	£3,938	£26,438
	Directors and Officers Insurances	£5,000	£5,000	£875	£5,875
	Commercial Combined Insurances (all Office,Public etc)	£8,000	£8,000	£1,400	£9,400
	Finance/accountancy support	£25,000	£18,750	£3,281	£22,031
	Audit Fees	£30,000	£30,000	£5,250	£35,250
9	Mediation Pilot	£150,000	£112,500		£112,500
	Staff Training & Development	£50,000	£37,500	£6,563	£44,063
10	Additional Pension Contributions (ex-SLSO staff)	£20,000	£15,000		£15,000
11	Temporary Staff & other HR costs	£75,000	£56,250		£56,250
11a	Utilities	£30,000	£22,500	£3,938	£26,438
		£884,635	£707,976	£ 82,218	£790,194
12	Contingency: Operational Float	£150,000	£112,500		£112,500
13	Contingency: Capital Fund	£25,000	£18,750		£18,750
14	Contingency: Commissions' Legal Expenses	£100,000	£75,000	£13,125	£88,125
15	Contingency: Members PI insurance	£30,000	£22,500		£22,500
16	Contingency: Commissions Legal Defence Fund	£100,000	£75,000	£13,125	£88,125
17	Contingency: HR (TUPE/COSOP)	£50,000	£37,500		£37,500
		£455,000	£341,250	£26,250	£367,500
18	VAT Recoverable				£0
	NINE MONTHS BUDGET TOTAL: Start October 2008 to end June 2009				£2,620,368
	Projected Base Levy Figure for Period 01 October 2008 to 30 June 2009 (10,586 Practitioners)				£248
	Projected Annual Budget Plan based on the 9 month inaugural Budget.				£3,493,823.40

Notes to the Annual Budget Plan for the Period 01 October 2008 to 30 June 2009

- 1 The salary for the Chief Executive Officer is subject to the approval of Scottish Ministers and this is progressing. This salary has been reached following HayGroup evaluation and ratification by Scottish Government Pay Policy and Remuneration groups.
- 2 The salaries for these posts have been reached following HayGroup evaluation. The salaries shown also take account of the impact of staff transferring from the SLSO and the LSS under COSOP and TUPE. Staff will be paid at their full annual rate of pay during job training.
- 3 The daily rate for the Chairing Member has been set by Scottish Ministers. This rate has been set in line with the Scottish Government's "Policy for Senior Public Appointments" and set at Band 2.
- 4 The daily rate for Members has been set by Scottish Ministers. This rate has been set in line with Scottish Government's "Policy for Senior Public Appointments" and set at Band 2.
- 5 Members Allowances and Expenses have been set at £27,000 to cover travel, stationery and other consumables.
- 7 The SLCC will purchase the "Scots Lite" IT platform. This will provide telephone systems. This is the anticipated annual cost of running this system. This figure is derived from Scottish Government sources. See Main Caveat below.
- 8 The location of Edinburgh has been directed by Scottish Minister's. A preferred building has been identified though lease details not finalised at time of writing. These figure represent the costs for that building. The Commission have not been involved in the selection of this building. This figure is derived from Scottish Government sources. See Main Caveat below.
- 9 The Mediation Pilot is expected to commence in October 2008 and this figure represents the cost of a Mediation Coordinator and staff and operating costs. (travel etc.).
- 10 Staff who will transfer to the SLCC from the Scottish Legal Services Ombudsman will transfer in accordance with "Cabinet Office Statement of Practice" (COSOP). Those staff have their terms and conditions of employment protected and this includes the right to continue their existing pension arrangements. All staff are currently members of the Principal Civil Service Pension Scheme with final salary entitlement. This figure has derived from Scottish Government sources. See Main Caveat below.
- 11 This represents a sensible contingency for long term absence, maternity cover and short term need.
- 11a Utilities: This figure has derived from Scottish Government sources. See Main Caveat below.
- 12 Operational Float: this represents a volumetric contingency as recommended by external auditors.
- 13 Capital Fund: this represents the requirement for office and equipment refurbishment.
- 14 Commission's Legal Expenses: this represents any general legal expenses that the Commission may occur from 01 October 2008.
- 15 Members PI Insurance: this represents Professional Indemnity cover for all Members.
- 16 Commissions Legal Defence Fund: this represents cover for legal expenses resulting from challenges to the Commission.
- 17 HR (TUPE/COSOP): this represents costs that may be incurred to settle disputes that may occur as a result of staff transfers under TUPE and COSOP.
- 18 The SLCC will not be eligible to register for Value Added Tax and is therefore unable to recover VAT.

Annex A.

Main Caveat:

The SLCC has relied on figures provided by the Scottish Government in many respects. If any of the figures in the budget that have been sourced by Scottish Government become understated resulting in liquidity difficulties for the Scottish Legal Complaints Commission then the Commission will seek either a Loan or Grant from the Scottish Government in accordance with Section 30 of the Legal Profession and Legal Aid Act.

Annex B.

Annual Levy	Number of Practitioners	Waiver or Rate	9 Month Levy	Total Raised for 9 month period	Full Year Levy	Total Raised for 12 month period
Solicitors with 3+ years experience	6925	Annual Levy	£307	£2,125,552	£409	£2,834,070
Advocates	460	Base Figure	£248	£113,864	£330	£151,819
Solicitors in 1st 3 years of practice	1079	Annual Levy less 50%	£153	£165,594	£205	£220,791
Inhouse Solicitors	2122	Annual Levy less 66.6%	£102	£217,108	£136	£289,478
	10586			£2,622,118		£3,496,158
			Annual Budget Difference	£2,620,368 £1,751		