

# PREPARING FOR CHANGE, MANAGING UNCERTAINTY 2024-25

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# 1 INTRODUCTION

## THE CONSULTATION

This consultation document sets out our draft operating plan and budget for the operational year 2024-2025.

**The deadline for responses is 12:00 noon on Thursday 14 March 2024.** The Scottish Legal Complaints Commission (SLCC) consults at the same time each year, as set by statute. No late responses will be considered by the Board. We must publish responses to the consultation by the end of March 2024.

## KEY CONSULTATION ISSUES

**Strategy:** At the end of June 2024 our current four-year strategy comes to an end. Due the uncertainty coming from legislative reform we are proposing a transitional one-year extension of the existing main strategic aims in a 'cut down' strategy. More details are in **Section 2**.

**Operating Plan:** By the start of the year new legislation fundamentally reforming our role may have been passed, and we may be moving quickly to implementation. However, a number of other very different scenarios are possible including that the legislation is not passed (see **Section 2**). For this reason we are proposing a very focussed operating plan based on our key statutory functions, as well as having planned capacity for the various different scenarios which may come from reform. See **Section 3** for details.

**Budget and levies:** We are proposing a total budget of **£4,498k** and a **13%** increase to the general levy. The main drivers of cost are inflation, including the Scottish Government Public Sector pay policy, legal costs, IT costs and the cost of change and uncertainty. The increase has been minimised due the £500,000 five-year savings package delivered through our property move. **Section 5** provides full details, including the rates for discounted rates of levy which over **77%** of lawyers pay.

## KEY CONSULTATION QUESTIONS

We value feedback on all aspects of this consultation.

In particular, we would value comments on:

1. The implementation of our 2020 to 2024 strategy, stakeholder views on what went well and less well (**Section 2**)
2. The proposed one-year strategy (**Section 2 and Appendix 1**)
3. The proposed operating plan (**Section 3**)
4. Suggestions on further efficiencies (**Section 4**)
5. The proposed budget and levies (**Section 5 and Appendix 3**)
6. Any further information the Law Society of Scotland can share on the situation with the ceased firm of WW & J McClure Limited, including the likely number of people impacted or any other data to assist of forecasting of incoming complaints. (**Section 5 and Appendix 3**)
7. Ways to tackle persistently high levels of non-compliance with requests for files for investigation (**Section 5**)
8. Human rights and equality and diversity issues in relation to the proposals.

## 2 STRATEGY AND PREPARING FOR CHANGE

### STRATEGY

The current [four-year strategy](#) of the SLCC comes to an end on 30 June 2024. The background to its development can be found on our [website](#).

An interim evaluation of its implementation has already been carried out, looking at every aspect of the strategic aims, values and work plans. A full evaluation will take place once the full four-year period is complete.

By December 2023 (with only six months of the strategic period left) there are already areas where we can evidence significant achievements. We kept our staff safe and supported during Covid-19 and managed to maintain our normal services throughout. We reduced our complaint journey time, we are resolving 90% of complaints informally, we have moved property in a half million pound savings package, we are now a fully digital organisation, we've won awards for our process improvement work, and received external recognition of various aspects of the HR practice.

Even in areas where all the projects commissioned under the strategy have been delivered, we see the need for ongoing work. For example, our push to make communications clearer and more accessible has included staff training, a review of all templates, and new quality assurance systems. We've then had an external audit of the work and are now implementing final lessons learnt. However, we believe many of these areas of work are ongoing themes, so we will continue to develop these beyond the end of current strategy.

Finally, there are a small number of areas where work has not been completed. Some, like the implementation of the Legal Services (Scotland) Act 2010, are due to external factors we have no control over. Others, are where our efforts have not led to the outcome we hoped, such as improved compliance by solicitors with their duty to provide files for investigation. Some work (for example, on governance) was delayed to prioritise our response to Covid-19, and is now best left until after reform (to avoid changes to a system twice in a short period of time, duplicating cost).

Normally the end of one strategic period would see re-engagement with stakeholders on the development of a new three or four year strategy, perhaps following a [process similar to when we have done this previously](#). However, the coming year is unique in the level of uncertainty coming from the proposed legislation reforming our functions (see below). We are therefore proposing a one-year extension of the existing main strategic aims in a 'cut down' strategy. This provides ongoing strategic direction and continuity, without committing resource when the final content of the Bill is still not known. The proposed strategic framework is in **Appendix 1**.

### PREPARING FOR CHANGE

Next year is one of unprecedented uncertainty, although with many positive opportunities. This is due to the likelihood, but not certainty, that legislation will be passed in the Scottish Parliament reforming our functions. This is currently planned to happen just as our business year starts, but this is well after our statutory deadline for finalising a budget for the period.

We have had positive engagement with the Scottish Government on reform. The financial memorandum accompanying the Bill has indicated many elements of transition work may be funded. However, at the time of consultation the Bill is early in its progress, and no guarantees can be given on its final shape or form. Debate at Stage 1 has been vigorous, and many areas of amendment discussed but we have seen no detail. This means we do not know what flexibility or powers we may or may not have, or whether costs will go up or down following the passing of the Bill.

Likewise, this means understandably that it is too early for Scottish Government to confirm implementation and funding timescales, amounts, or what will be seen as transition funding rather than new 'business as usual' costs for new functions.

At the time of writing Stage 1 of the parliamentary process is not yet complete. This means there is no guarantee yet that the general principles of the Bill will be supported by Parliament. Planning scenarios for the SLCC consequently range from:

- major change being possible from the first day of the business year, to
- almost nothing being possible in the 2024-25 business year, to
- no change.

In the latter two scenarios there is an emerging need to tackle issues which have been waiting on reform but cannot wait much longer. This is discussed further in **Section 3**.

We are also very conscious of the timetable for implementation of the Legal Services (Scotland) Act 2010 which has taken over 14 years to implement. We also have experience of when funding was available from Scottish Government and how this linked to when spending was required by the SLCC. We also have the experience of the original Legal Profession and Legal Aid (Scotland) Act 2007 where provisions meant we had to dual run functions of the old Scottish Legal Services Ombudsman for 14 years.

There will be work to develop and cost a transition plan to be able to discuss funding with Scottish Government, and new 'business as usual' costs which will not be covered by transition funding. The new legislation may allow increased flexibility and reduced cost from appeals, but this is not yet certain and opposition is being voiced by influential parties. If savings elements of the new Bill are dropped, but new powers still added, costs may rise. Even if all savings are secured these may take some years to accrue (depending on Scottish Government choices on implementation).

In short, this year we will be *preparing for change*, whether or not it actually enters a formal and funded *transition period* to fully implement new powers.

## INTRODUCTION TO THE OPERATING PLAN

Taking into account the transition, and the need to be preparing for change, this year we are proposing an operating plan in two parts.

The first follows our more normal format of detailing projects and deliverables we need to carry out our functions. We have focussed on statutory obligations, in terms of complaints process, oversight, and our statutory Consumer Panel.

The operating plan includes our anticipated incoming caseloads, and further details on the calculations supporting this are set out in **Appendix 2**.

The second part is based on a number of costed scenarios (from no implementation of a new Act and the need to deliver other projects which have been on hold too long, through to the need to have resource to quickly scope transition work and make a transition funding request).

We do not know which scenario will apply, but we do know each comes with a funding requirement.

### 3 OPERATING PLAN 2024-2025

Projects are cross reference to our strategic aims. [D] = Deliver, [Iv] – Innovate, [P] = Prevent, [If] = Influence

#### A. STATUTORY COMPLAINTS SERVICE

1. We will process an estimated 1,307 incoming complaints (see Appendix 2 for calculations) and maintain our performance and customer service on core processes including if we are starting to implement reform (designing and ‘dual running’ a new system). [D, P]
2. We will continue our innovation and change programme, including our agile process improvement work, looking for new opportunities to work more efficiently, reduce the time it takes to handle complaints, and improve the quality of our work. The final programme will depend on whether reform is progressing, or we are working with the current system. [D, Iv, P, If]
3. We will process an estimated 11 incoming appeals, 22 FOI requests, and 20 GDPR requests (see Appendix 2 for calculations). [D]
4. If required, we will implement the complaints system for Licensed Providers (ABS) under the Legal Services (Scotland) Act 2010. [D, Iv, P, If]
5. We will continue to review our approach to s17, including considering an updated detailed audit of compliance, re-contacting key stakeholders, and seeking to encourage a sector wide approach to tackling this issue. We will consider a pilot where, when there is a failure to respond, we move to formally decide the complaint with the evidence available and on the basis that the firm has chosen not to present anything to counter the evidence from the complainer. We will also consider publishing these cases. [D, Iv, P, If]
6. Our Service Experience Team (SET) will identify new opportunities to improve customer service (either implementing reform, or for our existing process) and implement these within the year. This will include reviewing the implementation of the new customer feedback system (from 23/24 plan). It will also include work to further consider supporting complainers who have experienced trauma. [D, Iv, If]
7. With the initial four years of work to improve our ‘clarity’ of communication implemented and audited we will refresh training and awareness with our staff. We will plan and consider further opportunities to make our communication clearer and more accessible to practitioners and the public. [D, Iv, If]

#### B. STATUTORY OVERSIGHT, TREND REPORTING AND OUR OUTREACH SERVICE

8. We will continue work to deliver our statutory duties of oversight in relation to the Relevant Professional Organisations. We will:
  - follow-up on our review of Faculty of Advocates conduct complaints system,
  - follow-up on our review of the Law Society of Scotland’s conduct complaints process to assess progress with our recommendations,
  - follow-up on our review of the Master Policy (building up to the next re-tendering) and assess progress with our recommendations, and
  - start a review of our approach to the Client Protection Fund. [D, Iv, If]
9. We will process an estimated 11 incoming handling complaints (see Appendix 2 for calculations) and maintain our performance and customer service on core process including if we are starting to implement reform (designing and ‘dual running’ a new system, with only minor changes currently proposed but the legislation not yet finalised). [D, If]
10. We will deliver a programme of outreach to the profession through newsletters, events, meetings with senior stakeholders and roundtables. We will consider a pilot of ‘drop in’ training and engagement for practitioners. [Iv, If]

11. If required, we will review the approved regulator complaints system under the Legal Services (Scotland) Act 2010 to ensure it remains fit for purpose after the eventual launch of the licensed provider scheme and with associated communications and the training of staff (all needing updated, due to delays in the scheme being launched by other bodies). [D, Iv, P, If]

### **C. STATUTORY CONSUMER PANEL AND ALIGNED WORK**

12. The Consumer Panel will continue to contribute to the reform debate, ensuring a clear consumer voice influences both the SLCC's policy development and the parliamentary debate on reform. They will provide a vital consultation and challenge role as the organisation moves to transition planning and implementation. [D, Iv, P, If]
13. Ensuring compliance with the new statutory consumer duty coming from the Consumer Scotland Act 2020. [D, Iv, If]

### **D. BUSINESS FUNCTIONS TO SUPPORT THE DELIVERY OUR STATUTORY FUNCTIONS**

14. We will scope an external review of our governance framework (including governance elements of complaints handling/oversight), ensuring our governance is up to date and fit for the future, taking account of best practice and the requirements of any reform implementation, with a view to obtaining recommendations for the short, medium, and long-term. We will explore further independent non-exec appointments to committees to support the development of diverse talent to support public Boards in Scotland. [D, Iv]
15. We will continue to improve our HR work including reviewing the progress we have made on improving diversity through our revised recruitment processes, starting to make use of data analytics in HR, implementing any changes from a review of our appraisal system, and updating our approach to succession planning. [D, Iv]
16. We will develop our use of technology to deliver our role. This will include scoping a review of our IT support contract, and considering a tender process (this may be delayed to accommodate reform work). We will also undertake a five-year review of personal hardware needs (laptops etc) and plan a replacement cycle. [D, Iv]
17. We will scope a review of internal Audit contract and consider a tender process (this may be delayed to accommodate reform work). [D, Iv]
18. We will finalise our data action plan and begin implementation. This work will include ensuring we are aware of relevant developments in the legal, regulatory and complaints sectors. [D, Iv, P, If]
19. We will start work to look at how our carbon footprint can be accurately calculated, and we will consider how our e-footprint for carbon can be reduced. We will encourage the use of volunteer days to support sustainability initiatives. [D, Iv]
20. We will review our equality statement and how we ensure that the 'general duty' under the Equality Act 2010 is given 'due regard' in all our work. [D, Iv, P, If]
21. We will initiate discussions with Scottish Government on the arrangements for a public appointments process to replace members demitting office in March 2026. [D]

### **E. ENGAGING IN REFORM AND IMPROVING THE PROCESS**

22. If the Bill is not finalised, we will continue to engage in its development and will also liaise on enabling statutory instruments. We will continue to contribute to wider discussions (for example, responding to consultations from other bodies in the system, as they implement reform, especially where their functions interface with ours). [D, Iv, P, If]



23. Once the legislation is finalised, we will need to review it and create costed implementation/transition plans to discuss with Government re transition funding. We will commission legal advice to support this. [D, Iv, P, If]
24. We will start work on an overarching statement on organisational purpose and regulatory approach based on the new Act (including consultation with stakeholders) as this will inform our approach to implementation (and therefore be required before we can submit a request for transition costs). [D, Iv, P, If]

F. POST REFORM AND UNCERTAINTY

25. We face a period of unprecedented uncertainty. Part of our Operating Plan must address this, and further details are provided on the following page. *On this objective further information is provided below.* [D, Iv, P, If]

Further details on reform and uncertainty

Next year is one of unprecedented uncertainty. This is due to the likelihood, but not certainty, that legislation will be passed in the Scottish Parliament reforming our functions. This is currently planned to happen just as our business year starts but is well after our statutory deadline for finalising a budget for the period.

Details of this are provide in **Section 2** above.

This means that we are in a position where we know we may be legally obliged to start implementing significant change - change that we want to deliver in the interests of complainers, the profession and the wider public - while maintaining all current business and systems, but with no guarantee of any funding. While at the same time we must also be prepared for a number of scenarios where no changes happen in 2024/25 or indeed in the longer term.

The situation with WW & J McClure Limited also provides a level of uncertainty we must plan for.

Several scenarios are considered, but can be illustrated by three simplified models:

Scenario	Bill passed on time (June), all powers in draft Bill included	Bill delayed, and implementation looks delayed in the short term	Bill abandoned or Bill implementation delayed in long-term (as per 2010 Act)
SLCC policy position	We would work to swiftly implement new powers to deliver benefits to the public and profession. There will be costs not covered by transition funding.	We would bring forward projects provisionally scheduled for 2025 and 2026 to continue to work productively and have capacity in those future years to deliver the delayed reform.	We would need to tackle the longstanding issues we had hoped reform would address and will need to progress work on hold which we had envisaged would be more efficiently delivered at the same time as reform.



Scenario	Bill passed on time (June), all powers in draft Bill included	Bill delayed, and implementation looks delayed in the short term	Bill abandoned or Bill implementation delayed in long-term (as per 2010 Act)
<b>Examples of cost drivers which require a budget allocation</b>	<ul style="list-style-type: none"> <li>Legal advice on the final version of the legislation and how this alters the SLCC's powers</li> <li>Initial decisions on regulatory and complaints approach to inform costing and implementation planning</li> <li>Creating a costed plan to apply for implementation funding (inc. legal advice)</li> <li>New 'business as usual costs' for new functions added (for example, annual licence for software to maintain a new register will be a new 'BAU' cost, even if set up is a transition cost)</li> <li>Dual running of the complaints system (old &amp; new) depending on the transition arrangements</li> </ul>	<ul style="list-style-type: none"> <li>Ongoing legal advice on amendments</li> <li>Ongoing stakeholder engagement on reform</li> <li>Contributing to the finalisation of the legislation</li> <li>Putting in place interim staffing for s17 as the current arrangements are unsustainable if there is any delay in reform</li> <li>Improving our service by bringing forward a review and replacement of outdated IT hardware</li> <li>Tendering for IT and Internal Audit (tentatively included in this Op Plan, but currently likely to be the first elements to be delayed if we do need to move swiftly to reform)</li> </ul>	<ul style="list-style-type: none"> <li>Develop a 4 year strategy</li> <li>Implementing a sustainable solution for s17 staffing and process management</li> <li>Implementing a sustainable solution for Court of Session appeals staffing and costs</li> <li>First steps in considering a new case management system</li> <li>Reviewing Consumer Panel work, and undertaking research and evidence gathering, based on sustained commentary in reform process about the lack of consumer research</li> <li>New process efficiency work to further improve the current system</li> </ul>
<b>WW &amp; J McClure Limited</b>	In all these scenarios there is also the risk of a sudden, simultaneous and unprecedented volume of complaints coming from the situation with WW & J McClure Limited		

In each of the several scenarios considered there are staffing costs, potential legal advice and consultancy costs, and likely IT costs. Based on various costing models, and various scenarios, an allocation of **£143,453** has been made in the budget.

For this reason, we are for first time proposing an element of budget which is required not to deliver one specific item of work, but to deliver the work that will be needed depending on the outcome of reform, and to deal with the uncertainty coming from the WW & J McClure Limited situation.

## 4 FINANCIAL CONTEXT TO THE BUDGET

### OUTURN IN 2022-2023

We budgeted income of £3,737k and received income of £3,863k.

The mains reasons for the variance are higher complaint levy income than anticipated, higher interest rates and recovered secondment income.

We budgeted expenditure of £3,870k and spent £3,911k.

The main reasons for the variance are significant legal costs relating to appeals and section 17 (tackling solicitors failing to provide files).

### FORECAST OUTURN FOR 2023-2024

We budgeted income of £4,103k and are forecasting income of £4,195k.

The mains reasons for the variance are higher number of practitioners than budget and continuing higher interest rates.

We budgeted expenditure of £4,259k and are forecasting expenditure of £4,311k

The main reasons for this are increased legal costs relating to appeals and section 17.

At the time of writing we are only six months into the year but anticipate that the outturn for the year will improve from a deficit of £156k to a deficit of £115k.

### OUR APPROACH TO BUDGETING FOR 2024-2025

As context, the last three years of financial and operational performance are reviewed, alongside the forecast outcome for current year.

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.

Three-year projections of income, expenditure, and reserves are created, giving a longer-term indicative model.

This is then mapped to the Scottish Government's five-year financial strategy – to give wider public sector context.

We then set out anticipated expenditures based on our operational plan.

The levies are 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).

The consultation is launched in January, and the responses to the consultation must, by law, be published before the end of March 2024.

The draft budget will be reviewed in April 2024, taking into account consultation responses and a further quarter's financial data.

We set the final budget and lay it before Parliament by 30 April 2024, with the final operating plan approved in May 2024.

## RESERVES

At the start of the 2023-2024 financial year we held **£1,443k** in reserves.

This figure is now within the parameters set out in the reserves policy, which requires us to hold 3 months of operating costs.

We project that at year end our reserves will be, **£1,327k**, and so still be within our reserves policy.

A noted we face a period of significant uncertainty. While at this point we do not see a compelling reason to increase reserves, neither do we wish to see them fall below our current policy.

This policy is constantly under review based on risks and operating costs.

# 5 PROPOSED BUDGET AND LEVIES 2024-2025

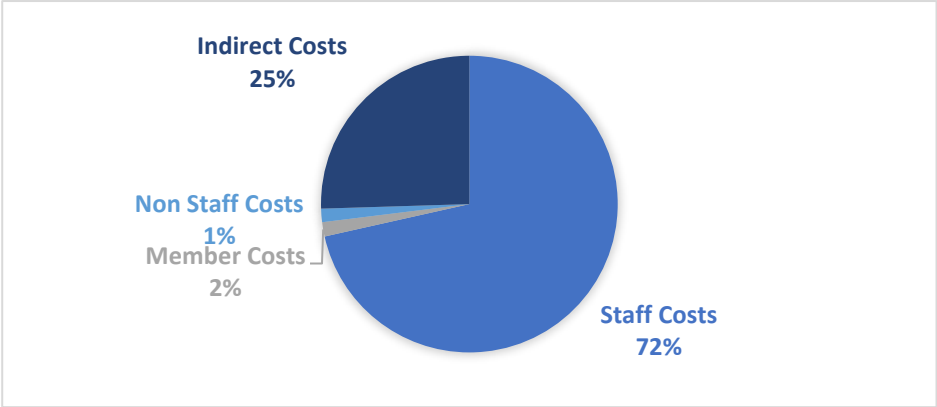
## BUDGET AND LEVIES AT A GLANCE

Overall income and expenditure:	
Anticipated income:	£4,652,800 (up from previous year - £4,102,723)
Anticipated expenditure:	£4,498,161 (up from previous year £4,259,147)
Levies – individual lawyers (2007 Act):	
General levy:	£ 547* (previous year £484) <i>*the majority of lawyers pay a discounted rate well below this.</i>
Complaints levy:	£5,000 OR £7,000 (previous year £5,000 or £7,000)
Levies – ‘alternative business structures’ (2010 Act):	
Approved Regulator (AR) Fee:	£10,000 (previous year: £10,000)
AR complaints levy:	£8,000 (previous year: £8,000)
Licensed Provider (LP) Fee:	£1,000 (previous year: £1,000)

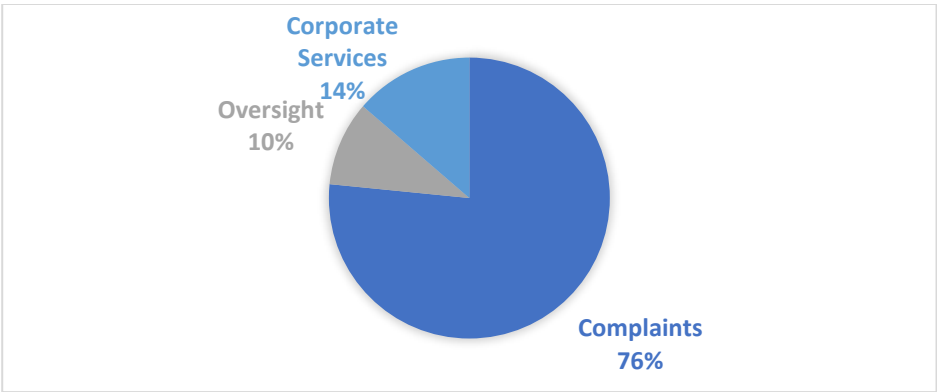
## MAIN AREAS OF BUDGET SPEND

The full budget can be found in **Appendix 3**.

The majority of our costs relate to our people:



The majority of our people costs are spent on staff dealing directly with complaints:



## EFFICIENCIES IN THE BUDGET

We are committed to finding efficiency savings each year.

In recent years we have made major savings through our move to a new smaller premises (which will save £500,000 over the next five years), reductions in members costs, improved efficiency of our complaint process (leading to reduced staffing at certain stages) and reductions in print and paper costs.

This year's specific areas of saving are:

- **One off property move costs** – these were one off costs included in last year's budget (~£50k saving)
- **Property Costs** – due to our relocation to a new smaller office (~£43k saving)
- **Office running cost** - due to our relocation to a new smaller office (~£4.5k saving)
- **Corporate legal costs** (not case related) – reduced to the completion of major projects which had required, or may have required, additional legal spend (~£60k saving)
- **IT costs** – small savings achieved across a range of elements of IT spend (~£22k saving)
- **Mediation costs** – ongoing reduced face to face mediation, with the costs for online mediation being less (~£5k saving)

The property project also avoided a rent rise, which would have been due this year, in our previous property.

Various other small savings as visible in the full budget in **Appendix 3**.

## DRIVERS OF COST IN THE BUDGET

There some specific factors driving cost in this proposed budget:

- **Underlying trend of increasing complaints** – based on our normal trend analysis we are anticipating a 5% increase in complaints next year. Increases in complaints per year have varied, but there is a consistent long-term trend (only interrupted by Covid-19) of increasingly complaints.
- **A specific concern at potential increases above the underlying trend** – in addition, [concerns have been raised in Parliament](#) that 100,000 people may be affected by the situation with WW & J McClure Limited. In January the SLCC attended one meeting with 150 members of the public impacted, and another public meeting of similar size will be happening in February. We have access to very limited information on the global management of this firm collapse (which is not in the responsibilities of the SLCC) but understand many impacted parties may not yet be aware of the issue. The [discussion on the matter in Parliament](#) helpfully sets out for the public record that the SLCC must ensure it is resourced to deal with anticipated complaints. Based on public contact requesting the SLCC meet its statutory duty to give information on the complaints process and publicly stated information on the possible level of complaints, we are making an assumption that complaints could rise higher than our estimate based on the normal underlying trend.

- **Inflationary pressure** – all organisations are facing a range of cost increases across all goods and service. We have worked hard to reduce the impact of this, and in some budget lines (such as IT) have still managed to achieve overall savings despite some large increases in some elements (Microsoft licences).
- **Staffing costs and Scottish Government Pay Deal**– this relates to the increased complaints load anticipated and the cost of mandatory pay awards.
- **Increased legal costs for appeals** – despite careful management legal costs are continuing to rise.

There are also long-term drivers of cost for the SLCC which are being debated in the context of reform:

- **Process complexity** – it is well accepted the process is complex and prescriptive, and the SLCC is seeking to address this through legislative reform.
- **Appeals** – under the current legislation the SLCC has one of the most expensive appeal routes of any UK ombudsman. The SLCC is seeking to address this through legislative reform, although notes the profession and judiciary oppose this.
- **Access to solicitor files** – there is a widespread and systemic failing in the solicitor profession to comply with professional responsibility and the law around providing access to files. This is driving significant cost to tackle as well as delay for all parties. The SLCC is seeking new options to tackle this in legislation, as well as a range of other means.

## THE GENERAL LEVY

<p><b>The suggested general levy is £547</b> (last year £484)</p>
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The majority of levies are discounted, and further details are available in **Appendix 3**. We welcome comments on all aspects, but note the statutory duty to consult is only on the setting of the general levy (as above).

In previous years we have consulted on the ‘apportionment’ of discounts. Currently discounts are structured around categories where clear regulatory data is available from RPOs and has been for some time (to allow predictions to be made). These currently include discounts for in-house lawyers and employed solicitors in private practice (compared to business owners).

Some categories had very small variances between which related to historic costings and then percentages increased being applied. We have reduced the variation in some of these (for instance, inhouse and overseas) if the risk profile similar and there is no longer justification for the variance.

## THE COMPLAINTS LEVY

We charge this when a complaint is upheld. The statutory aim was to ensure that some costs could be recovered, often known as ‘polluter pays’, when a complaint was upheld. This was to balance income from the general levy.

Last year, following a specific consultation with the profession we increased the maximum levy from £5,000 to £7,000. The additional £2,000 will only be levied where a firm has failed to comply with a statutory s17 notice.

The current full complaints levy policy can be found on the [policies page](#) of our website.

<p><b>The suggested complaints levy is £7,000</b> (last year £7,000)</p>
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## APPROVED REGULATOR (AR) AND LICENSED PROVIDER (LP) LEVIES

**Approved Regulator levy:** Last year this was £10,000, having increased from £3,000 the year before based on final authorisation for the Law Society of Scotland to license new businesses being granted in December 2021, and a statement from LSS that licensing would start within the budget year. This did not happen, but preparation costs were expended.

We had previously received (2018-19) an element of set-up funding from the Scottish Government to cover historical costs and assist with set up (for example, we developed and consulted on an Approved Regulator complaints process). However, new work is required every year.

We are again told by the Society that they will be launching their scheme in the 2024-2025 business year.

Funding received from this levy last year supported training for staff and Board members, updating of templates letters and processes, legal advice and consultation on the new rules covering ABS, the preparation of call handling scripts, website updates, case management system updates, and other factors. Unfortunately, with further delays much of this work now needs re-done, templates need updated with a new office address, Board members have been replaced, staff members in relevant roles have moved on. The cost is an inevitable consequence of constantly being in a position of being told we must be ready to launch at a moment's notice for the last 13 years, but the actual launch never coming.

No Approved Regulator complaints have been received, although we have had some enquiries.

This levy will be collected.

In future years this levy may fluctuate significantly again, depending on the work we have to carry out.

**Approved Regulator 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 recovered the AR complaints levy reduced three years ago 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).

It is hard to predict what complaints may arise in the first full year of the Society being fully approved. The levy may change significantly in future years.

**The suggested Approved Regulator levy is £10,000 (last year £10,000).**

**The suggested Approved Regulator complaints levy (for a complaint that is upheld) is £8,000 (last year £8,000).**

**Licensed Provider Levy:** Complaints about LPs are similar to the types of complaint we already handle, although new systems and templates are required, and new legal issues will arise.

Based on discussions we have had with the Law Society of Scotland it still appears unlikely that any LPs will be fully licensed by July 2024, when the first levy will be collected. As a consequence, it may be that no fees are collected.

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. We currently 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.

It is unlikely any LP levies will be received within the year. The levy may change significantly in future years.

**The suggested Licensed Provider levy is £1,000** (last year, £1,000).

**The suggested Licensed Provider complaints levy is £7,000** (last year, £7,000).

# APPENDIX 1: INTERIM STRATEGY 2024 TO 2025

Our vision is that **every client receives a professional service, and every lawyer adheres to professional standards.**

Our mission is to **resolve complaints, prevent the common causes of complaints, and enable quality improvement.**

**We have five strategic aims** to achieve our ambition to be an efficient and effective complaints, regulatory, and oversight body, delivering a quality service. Our aims are to:

<b>Deliver</b>	Deliver our functions as a high-quality service which is accessible and inclusive, has good customer service at its heart, is prompt, and proportionate, and which delivers fair resolutions.
<b>Innovate</b>	Innovate across our complaints, regulatory and oversight functions by working as a performance-focused, agile, change-confident and resilient team, delivering continuous quality improvement and best value in our work.
<b>Prevent</b>	Prevent the common causes of complaints through analysis, shared learning and improvement work.
<b>Influence</b>	Influence the evolution of the regulatory system across the legal services market through complaints learning and our regulatory and oversight functions.
<b>Transition</b>	Transition the organisation through a period of strategic change and expansion of functions and role, supporting our staff, and focusing on a service design approach.

**Our values are:**

<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.

## APPENDIX 2: CALCULATIONS OF INCOMING CASE LOAD

### COMPLAINTS ABOUT LAWYERS

In 2018-2019 we received 1,326; the highest incoming numbers we had ever received.

The next four years have been impacted by Covid-19. There was a dramatic drop in the first lockdown, a smaller drop in the second lockdown, and then a steady rebuilding of numbers:

	2019/20	2020/21	2021/22	2022/23
Incoming complaints - total for year	1,036	1,054	1,159	1,281

That drop may have been accentuated by 2018-2019 being an exceptionally high year for incoming complaints.

As of the end December 2023 we had received 590 complaints in the year, compared to 638 in the same period last year, placing us 7.5% lower in terms of incoming 'year to date' with the previous year. However, this remained higher than the three years prior to that:

	2019/20	2020/21	2021/22	2022/23	2023/24
Incoming complaints – to December	577	526	572	638	590

Over the last decade or so we have not seen a decrease in incoming complaints apart from in the context of Covid-19. We do, however, see monthly incoming fluctuate significantly.

We are also concerned there are a large number of potential complaints coming from the situation around the former firm of WW & J McClure Limited. Figures of around 100,000 potentially affected parties have been cited. We also have reason to believe there is the potential for a single party to raise more than one complaint. This suggests that irrespective of underlying trends there is reason to believe there could be a sudden influx of complaints. Equally, past experience tells us that even where there have been previous firm failures, and large numbers of potential complaints, the actual rate of complaints will be lower, and does not tend to arrive all in one year.

Considering all the data in the round we are projecting the current year as a 'flat line'. It is the first time we have made such a prediction (rather than predicting an increase).

We have then projected a 5% rise for 2024 to 2025. This is based on that fact the long-term trend continues to suggest complaints will increase year on year and making some account for the potential for increased complaints coming from the situation around WW & J McClure Limited.

Complaints about lawyers	2019-2020	2020-2021	2021-2022	2022-2023	2023-2024	2024-2025
	Actual	Actual	Actual	Actual	Forecast	Forecast
Complaints incoming and requiring a formal prematurity and / or eligibility determination.	1,036	1,054	1,159	1,281	1,281	1345

Complaints about lawyers	2019-2020	2020-2021	2021-2022	2022-2023	2023-2024	2024-2025
	Actual	Actual	Actual	Actual	Forecast	Forecast
Of those eligibility decisions, 'Frivolous, Vexatious or Totally Without Merit (FVTWM)' and 'Time bar' are reserved to Commissioners	224	180	222	181	181	<b>190</b>
Full service <b>mediations</b> will be required on the following:	45	90	80	57	57	<b>60</b>
Full service <b>investigations</b> will be required on the following:	445	355	270	326	326	<b>342</b>
Case not resolved at eligibility, mediation or investigation and requiring a panel of three commissioners to make the final determination	198	131	133	124	124	<b>130</b>

If complaints remain static, or decrease, then adjustments can be made to resource to incorporate savings, and then further adjustments can be made in the budget for 2025-2026. If complaints increase above these estimated rates then reserves can be used and the levy increased in future years.

Forecasting cannot always be 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 or 'educated guess'.

Detailed information on our past performance and complaint volumes can also be found in our [annual report](#).

## OTHER CASE RELATED ACTIVITY

We are also responsible for investigating handling complaints which look at how the Relevant Professional Organisations (RPOs) deal with complaints about conduct. This can vary any year but following an unusual peak in 2020-2021 we are now projecting a flatter number of cases (see table below).

We also have a significant caseload assisting people with Data Subject Access Requests (DSAR) and Freedom of Information (FOI) requests. These requests have tended to be in proportion to the number of complaints we receive, although we've seen a small drop in DSARs recently (with a previous peak potentially linked to publicity around the new GDPR). The tight statutory turnaround times, and potential for significant fines, means this work must always be fully resourced. Again, we are now projecting a flatter level of work in this area (see table below).

The level of appeals has been relatively static in the last few years, despite case numbers starting to go back up. At the moment we have no reason to conclude this trend will change.

Other case types	2019-2020	2020-2021	2021-2022	2022-2023	2023-2024	2024-2025
	Actual	Actual	Actual	Actual	Forecast	Forecast
Handling complaints	8	15	9	11	11	11
Freedom of Information Requests	33	24	21	22	20	22
Data Subject Access Requests	50	36	27	15	15	20
Appeals	12	9	10	10	10	11

## KEY PERFORMANCE INDICATORS

Key performance indicators are set at the start of each year. These usually include a target ‘journey time’ for complaints, a target level of ‘work in progress’ in the organisation, quality indicators, productivity indicators, and measures around certain key stages of the process (such as waiting time at eligibility and waiting time at investigation). More details on our annual performance are in our annual accounts and reports.

## APPENDIX 3: DRAFT BUDGET FOR 2023-2024

### SUMMARY OF LEVIES, INCOME AND EXPENDITURE

#### Proposed 2024-25 Levy & Budget

Actual General Levy Set	£
Private Practice Solicitors +3 Years (Principals/Managers)	547
Private Practice Solicitors +3 Years (Employed)	444
Conveyancing or Executry Practitioner 3+ years	444
Solicitors in first 3 years of practice	188
Practising out with Scotland	133
In-house Conveyancing or Executry Practitioner	133
In-house Lawyers	133
Advocates +3 Years	210
Advocates in first 3 years of practice	176
Association of Commercial Attorneys	141

Total Actual Levy required from each Professional Body	£
Law Society of Scotland	4,266,603
Faculty of Advocates	94,242
Association of Commercial Attorneys	705
	<b>4,361,550</b>

Income and Levy	
Levy from Law Society of Scotland	4,266,603
Levy from Faculty of Advocates	94,242
Levy from Association of Commercial Attorneys	705
Contribution from Complaint Levy	236,250
Approved Regulator Levy	10,000
Estimate of Interest Earned	45,000
	<b>4,652,800</b>

Expenditure	
Staff and Related Costs	3,352,495
Non-Staff Costs	1,146,551
Reform Costs	143,453
	<b>4,642,499</b>

<b>Budget Surplus</b>	<b>10,301</b>
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## BREAKDOWN AND COMPARISON OF EXPENDITURE AND LEVY

Draft Budget 2024-2025			
	2022-23 Actual	2023-24 Budget	2024-25 Budget
<b>Income</b>			
Levy Income	3,508,059	3,828,074	4,361,550
Complaint Levy Income	240,000	225,400	236,250
Other Income	114,497	49,249	55,000
<b>Total Income</b>	<b>3,862,556</b>	<b>4,102,723</b>	<b>4,652,800</b>
<b>Direct Staff Costs</b>			
Staff salaries and NIC	2,629,431	2,899,134	3,211,645
Reporters	4,300	5,000	5,000
Member Salaries and NIC	52,815	80,000	70,000
<b>Total Staff Costs</b>	<b>2,686,546</b>	<b>2,984,134</b>	<b>3,286,645</b>
<b>Indirect Staff Costs</b>			
Staff training & development	29,590	30,000	30,000
Member training & development	2,400	6,500	5,000
Staff travel & subsistence	3,070	1,500	1,500
Member travel & subsistence	2,135	5,000	4,000
Other staff costs	16,629	23,250	25,350
<b>Total Indirect Staff Costs</b>	<b>53,824</b>	<b>66,250</b>	<b>65,850</b>
<b>Non Staff costs</b>			
Property costs	176,275	321,387	277,958
Office running costs	57,938	57,022	52,569
Mediation and associated Costs	34,620	52,625	47,250
Appeal legal costs and advice-case specific	260,452	150,000	250,000
S17 legal costs and advice-case specific	136,148	85,000	85,000
Communication	38,564	22,345	21,758
IT	210,745	256,045	233,711
Corporate Legal Costs	14,397	75,000	15,000
Audit	33,864	29,260	37,000
Special projects & research	44,012	15,000	30,000
Bad Debt	(20,000)	45,080	35,438
Investment to reduce Office Dependency	0	0	0
Property Project	0	50,000	0
Depreciation	183,388	50,000	60,866
<b>Total Non Staff Costs</b>	<b>1,170,402</b>	<b>1,208,763</b>	<b>1,146,551</b>
<b>Total Expenditure</b>	<b>3,910,771</b>	<b>4,259,147</b>	<b>4,499,046</b>
<b>Total cost for reform and uncertainty</b>			<b>143,453</b>
<b>Surplus/(Deficit)</b>	<b>(48,215)</b>	<b>(156,424)</b>	<b>10,301</b>



## LEVY INCOME

### Levy Income

Actual General Levy Set	Levy	No's	Income
Private Practice Solicitors +3 Years (Principals/Managers)	547	3,159	1,727,973
Private Practice Solicitors +3 Years (Employed)	444	3,558	1,579,752
Conveyancing or Executry Practitioner 3+ years	444	3	1,332
Solicitors in first 3 years of practice	188	1,300	244,400
Practising outwith Scotland	133	1,111	147,763
In-house Conveyancing or Executry Practitioner	133	3	399
In-house Lawyers	133	4,248	564,984
Advocates +3 Years	210	401	84,210
Advocates in first 3 years of practice	176	57	10,032
Association of Commercial Attorneys	141	5	705
		<b>13,845</b>	<b>4,361,550</b>