

A triple challenge:

- Rising complaints and complexity
- Improving our performance
- Maintaining user satisfaction

Our budget for July 2019 to June 2020

Complaints handling which is:

Independent | Fair | Impartial

Accessible | Efficient | Effective

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1 Introduction

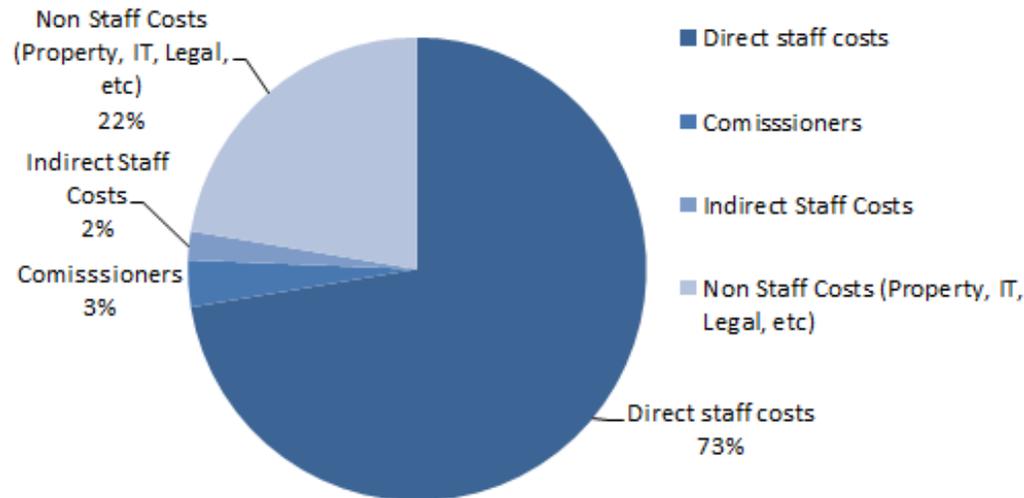
- 1.1 This document sets out the Scottish Legal Complaints Commission Budget for the operational year 2019/20.
- 1.2 **The Budget was consulted on, as required by statute, between January and March 2019.**
- 1.3 **The Budget** supports the delivery the fourth and final year of work under our Strategy for 2016 to 2020.
- 1.4 **The Strategy** sets out the SLCC's statutory functions, gives details of the complaints process, and describes our five main strategic priorities. It also defines our values, provides context for 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 **Our simplified focus this year is on five overlapping and interconnected themes** to deliver improved performance in the context of a long-term and sustained increase in complaints.
- A. Improving the customer complaints journey
 - B. Reducing common causes of complaints
 - C. Understanding and delivering high-quality customer service
 - D. Continuing to make the case for reform (to complaints and regulation)
 - E. Business-improvement enablers, statutory obligations, and delivering change
- 1.6 **Because we focus on performance, we invited an independent external reviewer to review all aspects of the business as part of our planning.** Dame Janet Paraskeva presented her findings in April 2018. This, alongside other work, informed changes to, and investment in:
- a new management structure
 - a greater focus on investment in IT to support business delivery
 - a proportionate and risk-based review of every aspect of complaint handling – a review that has led to the creation of over 30 short business-improvement projects, which should in turn deliver, by the time our next annual report is published, further demonstrable improvements in output and complaint-handling times.
- 1.7 The abbreviations and technical terms we use are explained in a glossary at **Appendix 2**.

2 Executive summary

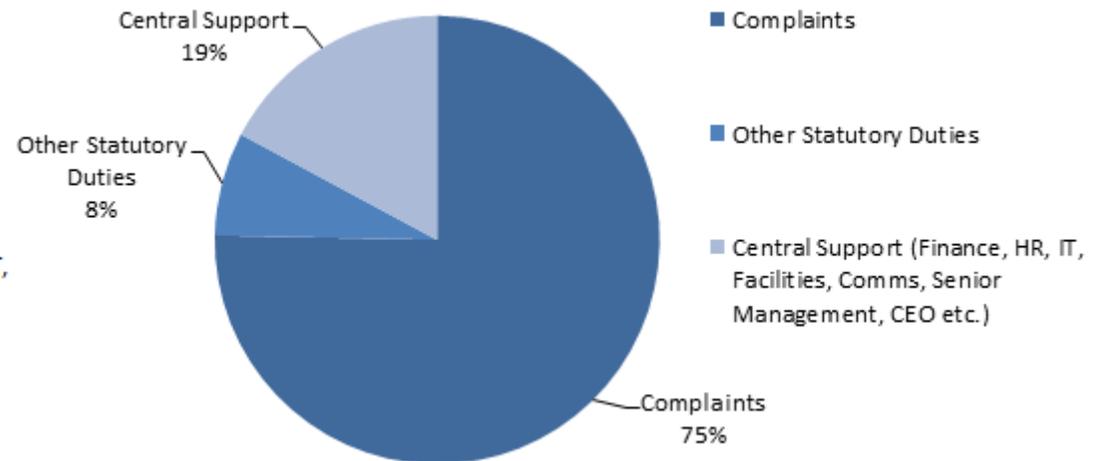
- 2.1 **There is an overall budget increase.** Any increase is always unwelcome, but the number of complaints has continued to rise sharply. **Section 4** sets out the drivers of cost, and **Section 5** sets out the efficiencies we achieve each year to ensure we are financially efficient. Our more detail Operating Plan, available separately, sets out the further work we have planned in order to improve the efficiency of complaint handling.
- 2.2 **This year the SLCC is freezing the levy for the majority of lawyers, and placing the focus of the increased costs related to complaints on business owners and partners,** rather than on employed solicitors. Owners and partners accept the risk of business and receive the profits from legal work, but they also have the most control over approaches which could reduce the common causes of complaints in the sector. The recently published 'Fit for the Future' independent review suggests a move to 'entity regulation', which the SLCC has previously encouraged, and we wanted to consult on what first steps may be possible within the current system. No objections to this approach were made in the consultation responses.
- 2.3 **Appendix 1** contains a summary of expenditures by line item, with a comparison with the previous year, 2018/19. The overall expenditure budget shows an increase of 9.6%.
- 2.4 The main specific drivers of this increased cost are as follows:
- **An increase in staff numbers,** allied to a strategic objective of reducing journey times significantly for all parties, and intended to cope with a sustained increase in the number of complaints, more of which get to the later stages of the system. This entails an increase in staff costs of £74,000.
 - **The mandatory public sector pay award and contractual pay progression:** a 3% salary increase for all staff earning under £36,500, and 2% for those earning over £36,500.
 - **Investment in management structure:** two additional management posts have been created to help deliver the SLCC's objectives in the coming years, at an initial annual cost of £115,000.
 - **Investment in IT:** required as we bring hardware, software and our website into line with the Scottish Government's 'Digital First' and 'Cyber-Essentials' strategies and as we strive to meet the changing business needs stemming from our process-improvement work. Website costs are in the communication budget line, and the upgrade in that area is also required to meet current accessibility standards.
 - **Additional investment in remuneration** to attract core skills and reduce staff turnover.
- 2.5 **We will continue to make the case for primary legislation to reform regulation and complaints and how they are funded,** to tackle the unnecessary complexities and costliness of the current system. We will support the Scottish Government in identifying and shaping improvements that will benefit the sector, consumers and the wider public. Our evidence suggests that the number complaints will continue to rise. If reforms does not progress at the requisite pace, there is a real risk that costs will continue to rise as well. We encourage the sector to be supportive of reform and to seek open engagement with us and other stakeholders on the matter.

3 Where do we invest, and what do we deliver?

Our single biggest cost comes from staff outlays:



Our staff are focussed on resolving complaints:



- 3.1 Our core focus is to deliver an independent, impartial, fair, accessible, effective and efficient complaints process. This is where the majority of our staffing and resources are directed. Our performance is monitored by a non-executive Board appointed by Scottish Ministers.
- 3.2 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 a formal determination is required, and whether any such determination is appealed. We have to respond to a demand-driven caseload (over 1,150 incoming cases a year) and have a statutory obligation to have adequate resources to process that workload. However, the purpose of our Operating Plan is not to detail this complaint-handling work – it is taken as a given. As a result, the Plan puts a greater focus on the specific projects and improvements planned for the operating year.
- 3.3 Information about our core processes is available on our website at <https://www.scottishlegalcomplaints.org.uk/making-a-complaint/complaints-process.aspx>. Information on our performance and complaint volumes can also be found on our website at <https://www.scottishlegalcomplaints.org.uk/resources/annual-report-accounts.aspx>
- 3.4 We have a range of other statutory functions which must also be included among our annual priorities. These include giving advice on complaints; issuing guidance on best practice; monitoring trends; investigating ‘handling complaints’ which look at how the Relevant Professional Organisations (RPOs) deal with complaints about conduct; monitoring the effectiveness of the Client Protection Fund and Master Policy; and supporting our statutory Consumer Panel.

4 What drives costs in the environment we work in?

- 4.1 **Over the last three complete years, the number of complaints has consistently increased (over 22% in three years).** In the first year, this was not budgeted for, and each year since then the number of complaints has increased at a higher rate than we had projected.
- 4.2 **The number of complaints has continued to rise in the first six months of this business year (July to December 2018).** The number of complaints in Q1 & 2 of this year was 20% higher than it was in the same period last year. However, there are 84 linked cases (42 parties, each taking a case against two providers), and this is highly unusual. These cases will take significant work, and a member of staff has been assigned to focus primarily on them. However, even if we take all 84 cases out of the comparison group, the number of complaints in Q1 & 2 of this year was still 6% higher than it was in the same period last year.
- 4.3 **We have also seen a measurable increase in the complexity of complaints,** with the number of distinct issues per complaint increasing, and an overall increase in the amount of work needed to adjudicate and investigate a given complaint and the issues it encompasses.
- 4.4 **Last year we undertook work, including discussions with the RPOs, to look at why it might be that this long-term and significant rise in the number of complaints was occurring.** No single factor stands out as a cause. Changes in standards of work are not apparent. There is just the clear fact that the overall number of complaints is on the rise. For the SLCC, this continues to mean increasing work, irrespective of what is causing the increase.
- 4.5 **We also wish to reduce further the time taken to resolve complaints.** This is a priority for both consumers and those about whom complaints are made: a swift outcome is important to both. Stakeholders have also indicated this was a high priority for them.
- 4.6 **Finally, we wish to at least maintain, and ideally to increase, satisfaction scores from complainants and lawyers to ensure that processing more complaints, and faster, does not impact the quality of our services.** We currently monitor several aspects of service, and we have found that 80% of lawyers, and 70% of complainants, find our staff 'helpful'. The scores for 'information provision' and 'communication' are similar.
- 4.7 **The growing number of complaints filed with us sets a triple performance challenge:** We must handle more complaints of a more complex nature, process them faster than we have been able to, and at least maintain, and possibly increase, the rates of user satisfaction with our services.
- 4.8 **We must now also tackle some issues that we been unable to address over the last three years.** As we note in the Executive Summary (Section 2), because we have been addressing the rise in the number of complaints, and because we have been waiting for negotiations on a new property lease to be completed, we have delayed taking action in such areas as the replacement of IT licences and IT hardware, and making various repairs to the property.

- 4.9 **In addition, we have to meet the same statutory obligations as other public bodies.** This includes the adoption of the Scottish Government pay award, contractual pay progression and the cyber-resilience public-sector action plan.
- 4.10 **The context of how the levy has changed since the SLCC was established in 2008 is also relevant.** In the nine accounting years since the SLCC's creation, the amount of the levy has risen or fallen in every year but one. This reflects the statutory requirement to fund necessary work each year, counterbalanced by work on efficiencies and the need to ensure that the lowest practicable levy is set. In some years, the SLCC has been able to demonstrate its commitment to rigorous cost control by reducing the levy. However, as its workload has increased, increases in the amount of the levy have been unavoidable.

5 Where can efficiencies be found?

- 5.1 The SLCC is committed to finding efficiency savings each year. Where possible, these are used to offset the need for increases to the levy.
- 5.2 **In 2015/16**, we brought the payroll function in-house and developed an online human-resources (HR) system, thus reducing costs and saving valuable staff time.
- 5.3 **In 2016/17**, we developed our case-management and record-management systems to improve efficiency, and we did not replace departing senior managers (choosing instead to reallocate duties). Other efficiency work was cancelled or delayed, as the major implications of a legal challenge by the Law Society of Scotland (LSS) were addressed (the court ultimately ruled in the SLCC's favour).
- 5.4 **In 2017/18**, we restarted the efficiency pilots we had approved in September 2016 (but that we had had to put on hold while we awaited the outcome of the LSS's legal challenges to our process). These pilots have led to improvements in complaint-handling times, but have had a less significant impact on the cost per complaint.
- 5.5 **In 2018/19**, we are set to achieve savings on office-running costs, membership costs, training, staff expenses. Savings were planned on legal fees, but may not be delivered due to sharp non-controllable increase in court fees and a higher number of appeals (although with static ratio to the number of complaints, simply rising with higher incoming numbers). We have already delivered a package of property savings worth over £16,000 in each of the next five years (from Sept 18). We have negotiated pension savings with Lothian Pension Fund.
- 5.6 **For 2019/20, there will be** significant savings as our new and lower-cost office lease will continue to have a beneficial impact on property costs. Other savings are planned in the budget, including savings on expenses, office costs, and corporate legal. We are also planning a 'challenge session' with other regulators, where we will invite external scrutiny and look for further efficiencies in our cost base and operating practices, based on what has been successful elsewhere.

6 What is the headline budget, and how does it impact the levies?

Overall income and expenditure:	
Anticipated income:	£3,721,705 (previous year £3,406,199).
Anticipated expenditure:	£3,719,950 (previous year £3,391,975).
Levies – individual lawyers (2007 Act):	
General levy:	<p>We are proposing to freeze the levy for most lawyers, but increase it for business owners.</p> <p><u>Partners/managers in private practice:</u></p> <p>£475</p> <p><u>New discounted rate: employed in private practice:</u></p> <p>- employed in private practice £386</p> <p><u>Standing discounted rates:</u></p> <p>- in-house - £116</p> <p>- advocate - £183</p>
<p><i>Under the 2007 Act, the SLCC sets a single levy, called the 'general levy', which it can then discount for certain groups.</i></p> <p><i>The general levy must, therefore, be the highest figure we plan to charge any group, and the discounts are then adjusted. In the proposals for this year, this means we will effectively freeze most levies at last year's rates, but that we will charge one group, business owners, more.</i></p>	
Complaints levy:	£5,000 (previous year £3,500)
Levies – 'alternative business structures (2010 Act):	
Approved Regulator (AR) Fee:	£8,000 (previous year: £20,000)
AR complaints levy:	£8,000 (previous year: £10,000)
Licensed Provider (LP) Fee:	£1,000 (previous year: £5,000)

6.1 Further details on the approach we have taken to budget, expenditure and levies are in **Sections 7 & 8** below. The full budget, and details of levy discounts for various groups, can be found in **Appendix 1**.

7 Approach to budgeting

7.1 In line with policy and the practice followed in past years, the approach follows these steps:

- The SLCC sets out anticipated expenditures 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 2018 is reviewed, together with the results for the financial year to 30 June 2018. This provides an estimate of anticipated reserves at year end, and the implications for the general levy for 2019/20.
- The proposed levy is set, and the budget is issued for consultation (including the complaints levy).
- The draft budget is reviewed in April, taking into account consultation responses and a further quarter's financial data
- The SLCC sets the final budget and lays it before Parliament by 30 April 2019.

8 Further details on levies

The complaints levy

- 8.1 The complaints levy is charged when a complaint is upheld. The statutory aim was to ensure that an element of costs could be recovered, often known as 'polluter pays', when a complaint was upheld. This was to balance income from the general levy.
- 8.2 The levy has been set at £3,500 since July 2012. Just prior to that (January 2012), the SLCC consulted on a levy of £5,000, but based on feedback this was reduced to £3,500.
- 8.3 The steady increase in the number of complaints has brought into focus the level of costs to the profession as a whole, compared to the level of cost for firms where a complaint is upheld against them. We therefore decided it was time to consult again on whether there should be a shift in the balance from all firms subsidising complaints to a slightly greater emphasis on 'polluter pays'. No objections were raised.
- 8.4 The full complaint levy policy can be found at: <https://www.scottishlegalcomplaints.org.uk/media/94802/ch037-complaints-levy-policy-from-01-october-2018-v0101-201809.pdf>.

- **The complaints levy is set at £5,000.**

Alternative Business Structure (ABS) Levies

- 8.5 **AR levy:** last year this was fixed at £20,000, and we also received an element of set-up funding from the Scottish Government to cover historical costs and ensure that set-up was finalised within our last business year.
- 8.6 No AR complaints were received.
- 8.7 There is therefore the opportunity to reduce the fee this year. In some ways, levy volatility could be seen as poor practice, and certainly as the system develops there would be an aim to avoid this. Equally, the SLCC has consistently submitted that the statutory model created built-in volatility by requiring cost recovery with the potential for significantly varied workloads each year.
- 8.8 This year, the levy was calculated on the basis of a 0.5% contribution to general operating costs, thus ensuring that these were not subsidised by lawyers but paid for from the new market. We have also anticipated that there may be a first AR complaint within this budget year, and that there will be ongoing overheads entailed by the setting up of the new complex regulatory arrangements that will thus be required.
- 8.9 The complaint 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. Last year, this levy was set at £10,000. With set-up costs now being recovered, it is proposed that the levy be reduced to £8,000. However, we will review this once experience has been gained from the first complaints, and the amount of this levy is likely to fluctuate in the future.

- **The AR Fee is set at £8,000.** We anticipate collecting this. This may change significantly in future years.
- **The AR complaints levy (for a complaint that is upheld) is set at £8,000.** This may change significantly in future years. This is not collected unless a complaint is upheld.

- 8.10 **Licensed Provider (LP) complaints scheme:** Complaints about LPs are similar to the type of complaint the SLCC already handles, although new systems and templates are required, and new legal issues will arise.
- 8.11 Based on discussions we have had with the LSS, we consider it unlikely that any LPs will be fully licensed by July 2019, when the first levy will be collected. As a consequence, it may be that no fees are collected in year one.
- 8.12 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 have no information from the LSS on the likely size or 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 many years.

- **The LP levy is set at £1,000.** It is unlikely that any income will be received from this source in year one. This may change significantly in future years.

9 Reserves

- 9.1 Reserves are anticipated to be in the region of £400,000 at the start of the 2019/20 financial year. This figure is below the parameters set out in the reserves policy, which is constantly under review based on risks and operating costs.
- 9.2 In previous years, we have used reserves to subsidise the levy, working to achieve the lowest level of reserves appropriate for business risks and operating costs. Over the last four years, we have clearly communicated that this subsidy will come to an end when reserves are around the target level.
- 9.3 This point has been reached this year.
- 9.4 The budget proposed for this year is near to expenditure and income neutral, with minimal impact on reserves (a possible return to reserves of £1,755).
- 9.5 A higher level of reserves remains a longer-term aim - but now is not the time to implement such a proposal.

10 Income

- 10.1 The SLCC has based income on:
- Anticipated income from the **general levy**. This is forecast to be £3,623,705.
 - Anticipated income from **interest earned on deposits**. This is forecast to be £30,000 for 2019/20, thus reflecting current and anticipated levels of investment return.
 - Estimated **complaint levy** income of £60,000 has been recognised for budget purposes for the financial year 2019/20. This reflects the recent changes made to the complaint levy policy and the level of awards now being made at the Determination Committee stage of the process. Development of this income stream to reflect the costs incurred on such cases could help lessen future rises in the general levy.

Appendix 1: Final Budget – 2019/20

Summary Budget

EXPENDITURE	
	£
Staff and related	2,888,000
Non-staff	831,950
Total	3,719,950



ACTUAL INCOME AND LEVY	
	£
Actual income including contribution to reserves	
Levy from Law Society of Scotland	-3,544,034
Levy from Faculty of Advocates	-79,056
Levy from Association of Commercial Attorneys	-615
Contribution from complaint levy	-60,000
Approved Regulator Levy	-8,000
Licensed Provider Levy	0
Estimate of interest earned	-30,000
Total from levy	-3,721,705
Contribution to SLCC reserves	1,755
Total funds available	-3,719,950



BREAKDOWN OF LEVY INCOME

Actual general levy set	PROPOSED – rates frozen for all lawyers, except business owners
Private Practice Solicitors +3 yrs PQE – Principals / Managers	£475
Private Practice Solicitors +3 yrs PQE - Employed	£386
Conveyancing Practitioner or Executry Practitioner 3+ years exp	£386
Solicitors in first 3 years of practice	£193
Practising outwith Scotland	£126
In-house Conveyancing Practitioner or Executry Practitioner	£116
In-house lawyers	£116
Advocates	£183
Association of Commercial Attorneys	£134

Total actual levy required from each professional body	£
Law Society of Scotland	3,544,034
Faculty of Advocates	79,056
Association of Commercial Attorneys	615
Total	3,623,705

Proposed Expenditure 2019/20

	Budget 19/20	Budget 18/19	Variance	Variance
	£	£	£	%
STAFF REMUNERATION AND SUPPORT COSTS				
Direct Staff Costs				
Staff salaries and NIC	2,692,500	2,398,975	293,525	12.2%
Member Salaries and NIC	121,000	123,000	-2,000	-1.6%
Total Staff Costs	2,813,500	2,521,975	291,525	11.6%
Indirect Staff Costs				
Staff T&D	30,000	25,000	5,000	20.0%
Member T&D	6,000	5,000	1,000	20.0%
Staff expenses	5,000	4,500	-500	11.1%
Member expenses	12,000	12,000	0	0.0%
Other staff costs	21,500	22,300	-800	-3.6%
Total Indirect Staff Costs	74,500	68,800	5,700	8.3%
NON STAFF COSTS				
Property costs	314,000	328,500	-14,500	-4.4%
Insurance	9,000	8,500	500	5.9%
Office running costs	48,700	50,700	-2,000	-3.9%
Direct case costs	176,750	174,500	2,250	1.3%
Communication	38,500	30,500	8,000	26.2%
IT	97,500	90,000	7,500	8.3%
Corporate Legal Costs	32,000	45,000	-13,000	-28.9%
Audit	21,000	21,000	0	0.0%
Special projects & research	12,500	12,500	0	0.0%
Capital Depreciation	82,000	40,000	42,000	105.0%
Total Non-Staff Costs	831,950	801,200	-30,750	-3.8%
TOTAL COSTS	3,719,950	3,391,975	327,975	9.6%

General and complaints levy

Actual general levy set	PROPOSED – rates frozen for all lawyers, except business owners		
	Practising Certificates	Annual Levy	Income raised
Private practice solicitors +3 years PQE – principals / managers	3,213	£475	£1,526,175
Private practice solicitors +3 years PQE – employed	3,442	£386	£1,328,612
Conveyancing Practitioner or Executry Practitioner 3+ years exp	5	£386	£1,930
Solicitors in first 3 years of practice	969	£193	£187,017
Practising out-with Scotland	904	£126	£113,904
In-house Conveyancing Practitioner or Executry Practitioner	3	£116	£348
In-house lawyers	3,328	£116	£386,048
Advocates	432	£183	£79,056
Associates of Commercial Attorneys	5	£123	£615
Totals	12,301	-	*£3,623,705

Appendix 2: Abbreviations and technical terms

Abbreviation or Term	Meaning
ABS	Alternative business structure, the name used in the media for LPs (see below)
AR	Approved Regulator, a regulatory body created by the Legal Services (Scotland) Act 2010.
CPD	Continuing professional development, the ongoing training that many professionals are required to undertake as part of their right to practice.
DP	Data protection
First-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 the SLCC.
FoA	Faculty of Advocates, the professional body for advocates and one of the RPOs in terms of our statute.
FOI request	A request made under The Freedom of Information (Scotland) Act 2002.
HR	Human resources.
LP	Licensed Provider, a new type of legal service business ('law firm') created by the Legal Services (Scotland) Act 2010.
LSS	The Law Society of Scotland, the professional body for solicitors and one of the RPOs in terms of our statute.
Our statute/the Act	The Legal Profession and Legal Aid (Scotland) Act 2007.
Reporter	An independent individual who assists in undertaking an investigation and writing an investigation report.
RPO	A Relevant Professional Organisation in terms of our statute.
Second-tier complaints	When a complaint comes to the SLCC, generally after having given the lawyer and/or firm that is the subject of their complaint the opportunity to consider that complaint first.
SLCC	Our own organisation, the Scottish Legal Complaints Commission.
SSDT	The Scottish Solicitors' Discipline Tribunal, the independent tribunal at which the LSS prosecutes solicitors for professional misconduct.