

**Title: Report on the SLCC's Audit of the
Scottish Solicitors' Guarantee Fund**

Author: SLCC

Date: July 2012

Contents

1	Introduction	3
2	Audit Scope and Objective	3
3	Overall Audit Conclusion	3
4	Key Findings and Recommendations	4
	Appendix 1 - Document Information.....	5
	<i>Record of Document Changes</i>	<i>5</i>

1 Introduction

- 1.1 In July 2011 the Scottish Legal Complaints Commission (SLCC) published a report on research carried out by The University of Manchester. This research was a purely statistical analysis of data from claims made to The Scottish Solicitors' Guarantee Fund (GF) to establish if there were any relationships between different aspects of claims made. The analysis identified a statistical relationship between the number and total value of claims received in the same year as an individual claim, and the level of payment made on an individual claim. The University's conclusion was that the outcomes of individual claims on the Guarantee Fund are statistically related to factors beyond the 'merits of the individual claim'.
- 1.2 The SLCC acknowledged from the outset that this initial research into Guarantee Fund claims would be a starting point for further investigation, particularly as the research did not indicate what the 'factors' might be. The SLCC considered that one of the factors that could influence outcomes could be inconsistent application of policy and procedure. Accordingly, this review focused specifically on that issue.
- 1.3 In view of the above, the Scottish Legal Complaints Commission (SLCC), with the agreement and co-operation of the Law Society of Scotland (LSS), carried out an audit of claims to test whether there was any evidence that the process by which claims were, and are, processed was a factor influencing the level of payments.
- 1.4 The SLCC would like to thank the LSS staff for their co-operation.

2 Audit Scope and Objective

- 2.1 The audit focused on:
- claims that were used to provide data to Professor Stephen at the University of Manchester
 - accuracy of data recorded on the GF register and in other records
 - compliance with section 39 the Legal Profession and Legal Aid (Scotland) Act 2007
 - changes made to systems since those claims
- 2.2 In carrying out the audit, the SLCC reviewed 36 claims files covering the period from 2002 to date, examined policy and procedural documents, reviewed monitoring and reporting arrangements, examined record-keeping (particularly records related to decision-making) and interviewed key staff.

3 Overall Audit Conclusion

- 3.1 In formulating its overall audit conclusion, the SLCC adopted the following rating structure.

Level of Assurance	Explanation
None	The expected processes, procedures and controls were absent or were considered to be fundamentally inadequate. We recommend that urgent remedial steps are taken.
Limited	The processes, procedures and controls under review appeared to be unsatisfactory and would benefit from significant improvement. We strongly recommend that Management implement the recommendations contained in this report.
Reasonable	The processes, procedures and controls under review could benefit from a number of improvements. We recommend that Management implement our recommendations to achieve these improvements.
Substantial	The processes, procedures and controls under review appear to be operating as expected, or where only a few minor areas of potential improvement have been identified. We recommend that Management consider implementing any recommendations made.

- 3.2 On the basis of the key audit findings the SLCC is satisfied that a reasonable level of assurance can be given to this effect.

4 Key Findings and Recommendations

Procedures and policies

- 4.1 The key finding of the audit was that there was consistency in the process by which the majority of claims were dealt. There was no evidence that the way in which policies and procedures were and are applied is one of the “factors” that supports the University of Manchester’s research conclusions. This was despite the fact that, until Guidelines were formally documented in 2008, the LSS worked directly from the provisions within The Solicitors (Scotland) Act 1980 and the Accounts Rules.
- 4.2 Key documents such as Policy/Information sheet and Guidelines have not been updated or reviewed since 2008. There is no evidence this had any impact on the outcomes of claims but, as a matter of good practice, the SLCC would have expected to see evidence of periodic review – for example to reflect changes in linked documents such as the Accounting Rules which were changed in November 2011 to allow Directors to consider claims up to £2,000.
- 4.3 The SLCC recommends that all documents related to the administration of the GF, particularly the Policy and Guidelines are reviewed periodically, both in terms of currency of information and the level of detail contained within them. This will ensure claimants are fully informed about all aspects of how their claim will be processed – for example the grounds on which the Guarantee Fund Sub-Committee may refuse a claim.

Recording of decision-making

- 4.4 The key document in respect of recording of decision-making is the Guarantee Fund Sub-Committee Minute. In the majority of cases reviewed the relevant minute was comprehensive in recording the names of the decision-makers and what was put before them for consideration. Minutes stated clearly what was considered in arriving at the conclusion of the claim.
- 4.5 In two instances the minute did not state specifically what documentation was provided for review by the committee.
- 4.6 It is the SLCC’s view that these isolated occurrences represent administrative shortcomings which were unlikely to have impacted on the consistency of decision making. The SLCC recommends that the LSS takes steps to ensure that the documentation considered for each claim is always specified as a matter of good practice.

Communication and monitoring of decisions

- 4.7 There was evidence that the communication of decisions and monitoring of post-decision actions was inconsistent. This did not impact on the process of *how* decisions about claims were made but could adversely influence perceptions of decision-making. While there were management tools such as checklists and monitoring spreadsheets in place, these were not updated/completed consistently and/or regularly.
- 4.8 The SLCC recommends the LSS reviews the communication of decisions and monitoring of post-decision action to ensure that appropriate parties are notified of outcomes timeously.

General administration of claims

- 4.9 One key theme in relation to general administration emerged during the SLCC’s review; delay, particularly in relation to updating parties and responding to correspondence. This did not impact on the outcome of the claims but the SLCC is bringing it to management attention as a matter of good practice that might improve perceptions of the process.

Appendix 1 - Document Information

Prepared by:	SLCC	
Date:	12 March 2012	
Approved by:	SLCC Board	
Date:	24 April 2012	
Document name, version and location:	\\SCOTSLITE\SLCC_Data\$\Home\SLN330138\Temp\1\2012.07.17 Report on the Audit of the Scottish Solicitors' Guarantee Fund v01.00.doc	
Number of pages:	5	
Review Date:	N/A	
Published:		Date:

Record of Document Changes

Date	Version changed	New version no	Brief Description	Reason for Change	Initials