

**Scottish Legal Complaints Commission**

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scottish legal complaints commission

29 April 2010

Mr Ian S Smart  
President  
Law Society of Scotland  
26 Drumsheugh Gardens  
EDINBURGH  
EH3 7YR

**Our ref: SLCC budget 2010/11.LSS**

**Your ref: CC/SLCC/PJY/QQ**

Dear Ian

**Scottish Legal Complaints Commission Budget and Levy 2010/11**

Further to my letter of 19 January 2010 and subsequent correspondence in relation to the SLCC's 2010/11 budget, please find enclosed the final budget and an invoice for the levy owing from the Law Society of Scotland.

In the response to us of 23 February 2010, the Society raised three main points: the complaint levy which it noted, the level of reserves which it considered to be too high and should be set at two to three months of running costs and a request that in the current economic climate the levy be reduced by £50.

As you are no doubt aware from the discussions between the SLCC and the Society the latter two issues are inextricably linked. The amount the SLCC decides is appropriate to hold as reserves, directly impacts on the funds it has available to underwrite and hence set the level of the general levy. The higher the reserves, the fewer funds we have; the lower the reserves the more funds we have at our disposal to underwrite the levy.

As regards reserves, the SLCC has set a reserves policy that takes a risk-based approach. The aim of the reserves is to ensure that the SLCC has reasonable levels of funds to enable it to carry out its statutory duty. On the advice of our auditors, the SLCC has decided that the level of reserves should be a minimum of three months and maximum of six months of running costs. We agree with the Society that three months is reasonable BUT only in the context that there is no other identified risk that could significantly impact on the organisation. Our long-term aim is to have reserves of three months.

As you will see from the enclosed budget the reserve has been set at approximately four-and-a-half months of running costs, based on our current predicted outturn. This level is above the three month level because of identified risks. The SLCC considered the Society's representations in detail but decided that the level of risk facing us warrants keeping reserves at

this level. The most significant of the risks is generated by the Society's approach to lodging appeals. As you are aware the Society has lodged four appeals challenging SLCC decisions to accept conduct complaints. It is these that present a significant financial risk to the SLCC. As far as our budget is concerned, if the Law Society succeed in their appeals, our process will become more expensive to operate. While we accept fully that there will be challenges to decisions that benefit all parties because they concern statutory interpretation, the route taken by the Society to date is potentially very expensive and the profession will end up paying for it whatever the outcome. We also have a serious underlying concern that while this debate is ongoing there are conduct issues that are simply not being investigated.

As regards the request to reduce the levy by £50, whilst the SLCC does not agree to reducing its reserves, we are mindful of the economic environment and the pressures this places on the Profession. With this in mind, the SLCC has taken the opportunity to use the intervening period to identify efficiency savings and conclude other business which has released additional funding to underwrite the levy. As you are aware from the original consultation, it had always been the intention to add unused contingency and other unused funds from the second six months of the financial year to the reserves, with a view to feeding this into the next budget and levy consultation. Since the original budget was consulted on in January 2010, the following has occurred:

- Harmonisation of staff terms and conditions was completed and so contingency is no longer required in respect of this
- There have been efficiency savings in respect of staffing costs and other operational costs
- It has become apparent that it is unlikely the full legal costs in respect of appeals will fall in the current year so the planned level of contingency is no longer needed for this.

As the SLCC has this additional three months of actual cost data vs. predicted costs data, the outturn is more robust. The net result of this is that there is more funding available to underwrite the levy. This situation is a reflection of the passage of time and would have occurred irrespective of the consultation process. The levy has been reduced by £40 (at the top level) to £235. I appreciate this is not the reduction requested, but to reduce it further would require reducing the reserves; something the SLCC is not prepared to do for the reasons stated.

The total levy required from the Society is £1,864,570, as set out in the attached invoice. We look forward to receiving your payment.

If you have any questions about this letter, please contact me or Rosemary Agnew (Acting CEO).

Yours sincerely



**Jane Irvine**  
**Chair of the Scottish Legal Complaints Commission**

Cc: Lorna Jack  
Phillip Yelland

Enc: SLCC 2010/11 Budget  
Invoice