

An end and a beginning...

- Delivering high performing complaints and oversight processes
- Completing projects to fully deliver our 2020-2024 strategy
- Consolidating savings from new ways of working
- Moving to a new location
- Looking ahead to new duties and reform

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1 Executive Summary

- 1.1 This document sets out our operating plan and budget for the operational year 2023-2024.
- 1.2 **A consultation ran from 26 January to 16 March 2023.** Responses were published on our website on 28 March 2023. The consultation date and process are set in statute.

Key proposals and changes from previous years

- 1.3 In 2021-2022 the general levy was reduced by 5%, falling from £494 to £467 (some categories of levy were reduced by 20%).
- 1.4 In 2022-2023 the general levy was reduced by a further 5%, taking the general levy from £467 to £444.
- 1.5 This reflected efficiency savings from new ways of working, and a lower incoming number of complaints during the two Covid-19 lockdown periods.
- 1.6 At the current time complaints are rising quickly back to pre-pandemic levels (we are projecting a 5% increase in complaints in the current year and another 5% in the year this budget relates to), and the organisation is facing inflationary costs across a number of areas.
- 1.7 **This year a 9% increase is set, taking the levy from £444 to £484. This increase is both below CPI inflation (10.4% in the 12 months to February 2023¹) and remains below the 2020-2021 levy (£494). It balances the need to deliver our statutory functions for the public and profession with ongoing efficiency and cost control to ensure best value.**

Our Budget at a glance		
Our General Levy will be £484 2022-2023: £444 <i>An increase of £40</i>	Our expected costs will be £4,259m 2022-2023: £3,870m <i>An increase of £389k</i>	Our expected income will be £4,103m 2022-2023: £3,737m <i>An increase of £366k</i>
More than 75% of lawyers will pay a discounted General Levy rate	Within our expected costs we have £169k of one-off costs which are being funded from reserves	Our Complaint Levy will rise to £7,000 to be used only where a firm fails to comply creating cost for the wider profession (subject to consultation) ²

- 1.8 A number of one-off costs are funded from reserves. Most relate to funding a downsizing of leased office space, offering a significant saving in the medium and long term. A final element relates to costs related to the reform debate, with reform also offering the chance of greater future efficiency. More details on both are provided later.

¹ <https://www.ons.gov.uk/economy/inflationandpriceindices/bulletins/consumerpriceinflation/february2023>

² See paragraphs 9.3-9.14 for further details

1.9 Whilst the strategic themes from previous years are all continued (see **Section 4**), this year's Operating Plan has a focus on a smaller number of larger areas of work:

Business as usual:

- a) Delivery of our core functions around complaints and oversight while in a high change context dictated by the projects below

Major projects bringing significant new opportunities, and potential savings, but also uncertainty and change for staff who will need support:

- b) Responding to ongoing work by the Scottish Government to reform of legal regulation and complaints handling
- c) Moving office, with all the accompanying preparation and work

Finalising projects from the last two years which are needed to deliver 'c' above and to unlock significant medium and long-term savings:

- d) Embedding 'Your job, your way' - a new operating model for our staff (time and locations of work)
- e) A new fully cloud based IT platform

Two further projects need to be coordinated with 'b' above with the hope that, in the longer term, these may also deliver smaller savings:

- f) Implementation of changes to the complaints process coming from changes to the SLCC's own rules
- g) Implementation of the new complaints handling regime for Licensed Providers and Approved Regulators under the Legal Services (Scotland) Act 2010.

Key information in the consultation

1.10 **Our core operational work next year** will include helping around 2,400 people resolve around 1,200 complaints. We also anticipate dealing with 25 Data Subject Access Requests, 20 Freedom of Information requests, 9 handling complaints, and 10 Inner House of the Court of Session actions, when a party challenges one of our decisions and we have to respond. It will include a number of s17 actions in the Inner House of the Court of Session to recover files we need to investigate complaints. It will also include complying with our statutory duties to monitor trends and oversee the indemnity arrangements in the profession, as well as communication, education and outreach work. We explain the assumptions behind these forecasts in **Section 4**.

1.11 **In Section 2 we note our financial outturn for 2021-2022, which showed a significant surplus as we continued to bank savings we could make.** However, we also note our forecast for the end of 2022-23, where increasing costs means a significant overspend is likely.

1.12 **In Section 4 we set out our projected level of case work, along with how we will deliver our other statutory duties and our operating plan for the year.**

1.13 **In Section 5 we note projected efficiency savings of over £28,000 for the coming year.** This stems from a property review project, and there are much greater savings anticipated in the following years.

- 1.14 **Since publishing the consultation, we have finalised a £500,000 efficiency savings package** over the five years after this budget year (from July 2024 onwards). This is based on the finalised property deal and demonstrates our long-term commitment to efficiency.
- 1.15 **However, in Section 6 we note those factors driving cost** – including significant factors outwith our direct control, for example, the public sector pay settlement.
- 1.16 We also highlight the impact of a particular key driver of unnecessary costs – the failure of solicitors to respond to statutory requests for files, leading to staffing and administration costs, and legal and court costs. More details can be found in **Section 6 and Section 9**.
- 1.17 **Appendix 1** contains the full budget.

2 Our financial outturn in 2021-2022, and forecast for 2022-2023

- 2.1 In the last two financial years we have been able to reduce the levy based on efficiency savings and lower incoming complaints due to Covid-19.
- 2.2 In 2021-2022 we were able to make significant savings on costs in some areas:
- Staff Costs £218,954
 - Member Costs £ 43,413.
- 2.3 However, we did overspend within other areas:
- Case related legal costs £85,330 (largely due to increased costs in pursuing solicitors who failed to provide files on request)
 - Training costs £35,220 (linked to supporting staff around digital and new ways of working following Covid-19).
- 2.4 This led to an overall saving of £140,445 for the year.
- 2.5 Overall, this was 3.7% under the anticipated budget.
- 2.6 These funds then passed into our reserves, however, to make sure the saving in 2021-2022 was immediately passed back to benefit the profession we both further reduced the levy and set a budget that had a deficit of £133,881, to be funded by reserves (which now exceeded our reserves policy).
- 2.7 Since then, a number of factors have had an impact on the 2022-23 forecasted outturn and these include:
- The mandatory Public Sector Pay Policy for this year being significantly higher than budgeted for, responding to the current cost of living increase
 - Increased property costs due to increasing energy costs and a potential rise to business rates in April
 - Increased legal costs due to Section 17 (recovery of files) and appeals.
- 2.8 In our consultation we forecast a deficit of £318,311 for 2022-23. We are now forecasting a deficit of £177,568. This is a result of additional income, some small savings and receiving a refund on service charges from 2019-20 which we did not expect to receive.
- 2.9 This provides the context in which we set the budget for 2023-2024.

3 Summary of our strategy for 2020-2024

- 3.1 Our vision is that ‘every client receives a professional service, and every lawyer adheres to professional standards’.
- 3.2 Our mission is to **resolve complaints, prevent the common causes of complaints, and enable quality improvement.**
- 3.3 **We have five strategic aims** to achieve our ambition to be an efficient and effective complaints and improvement body, delivering a quality service. These are to:

Deliver	Deliver a high-quality service which is approachable, people-centric, prompt, and proportionate, and which delivers fair resolutions.
Innovate	Innovate by working as a performance-focused, change-confident and resilient team, delivering our work in new and efficient ways.
Prevent	Prevent the common causes of complaints through analysis, shared learning and improvement work.
Influence	Influence the debate on reform, and lead the change as soon as final proposals are in place.
Adapt	This was ‘respond’ during Covid, then updated in summer 2022 to ‘adapt’: Adapt by building on learning from Covid-19 and beyond to ensure an agile and resilient operating model, focussed on function over form.

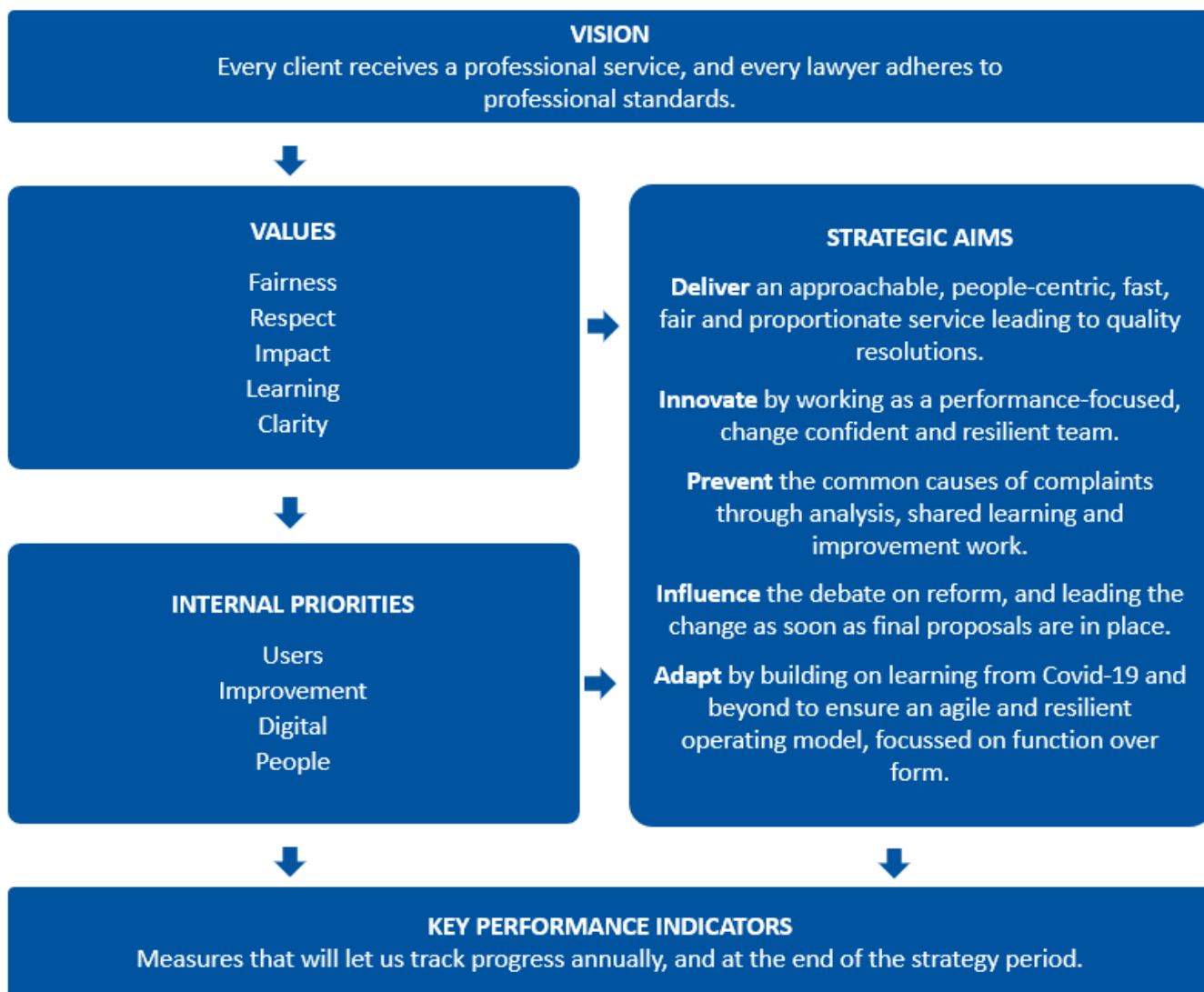
- 3.4 **We have four internal priorities which will influence all our work and will ensure delivery of our aims:**

Users	Good customer experience is at the heart of how we design and deliver services, and feedback drives our improvement work.
Improvement	Our people, processes, and outcomes demonstrate a commitment to, and delivery of, continuous quality improvement and best value.
Digital	Our thinking will focus on digital solutions, paperless processes and ‘social’ engagement, whilst ensuring access for all.
People	Our approach to wellbeing, development and a high performance culture ensures we can meet the challenges of ongoing change and increased demand, in a stimulating and enjoyable environment.

3.5 Our values are:

Fairness	Our processes and outcomes can be trusted by all as fair, independent and impartial.
Respect	We understand and respect the diverse groups we work with, work inclusively, and offer a good customer experience to all.
Impact	Every element of our work will deliver a meaningful result.
Learning	We continuously learn and develop, and share that learning, so we all improve our processes and the quality of our work.
Clarity	Our decisions, explanations, communication, and services will be clear and accessible.

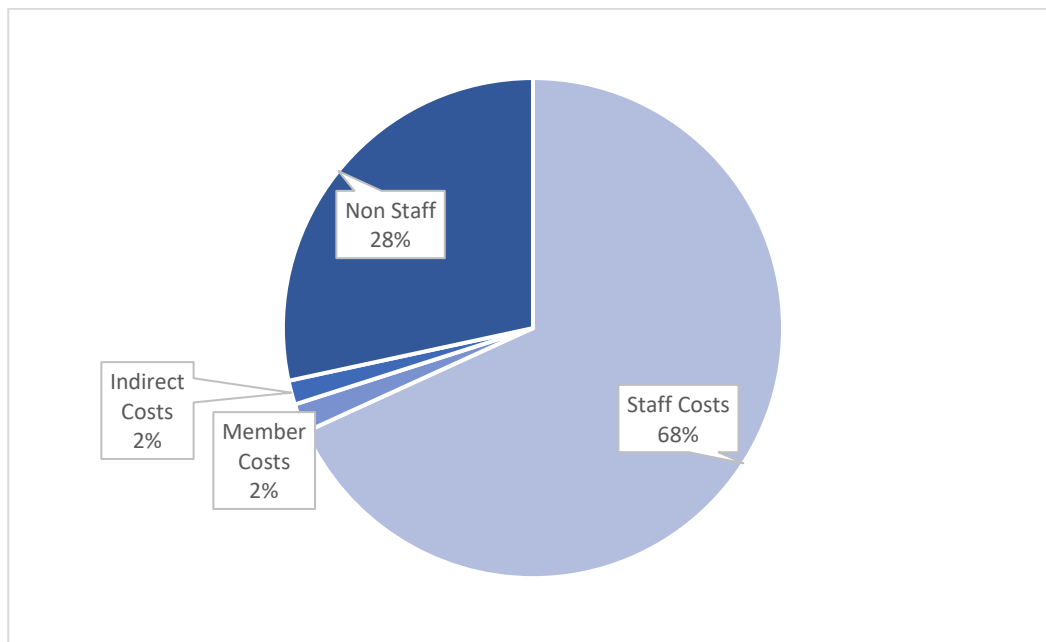
3.6 How these elements work together:



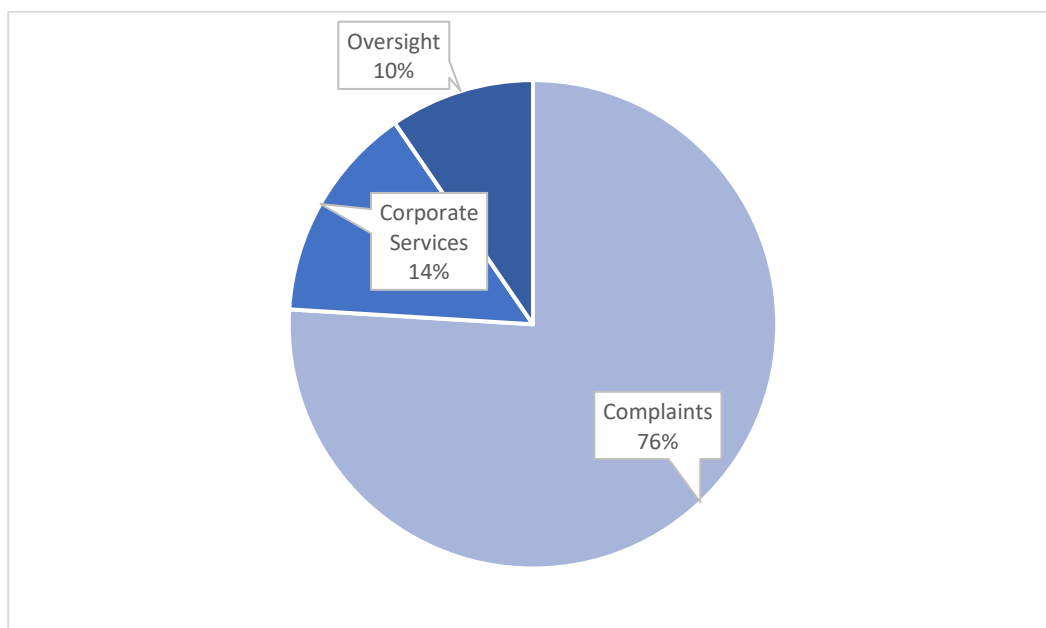
4 Our operational delivery for 2023-2024

Introduction

- 4.1 Our prime role is to deliver our statutory complaints and oversight functions. Our resource is focussed on this.
- 4.2 These functions are specified in detail in our legislation and rules. Our strategy and operating plan assist in defining how we deliver them and in setting ancillary actions which support continued improvement around those functions.
- 4.3 The majority of our costs relate to our people:



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



Complaints about lawyers – anticipated volumes

- 4.5 Our frontline complaints service is where the majority of our staffing and resources is directed.
- 4.6 How we deal with legal complaints is shaped by several factors. This includes the incoming number of complaints and their complexity, how these complaints are categorised, and whether they pass the first stages of our process. It then depends on 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 and have a statutory obligation to have adequate resources to process that workload.
- 4.7 Information about our complaints processes is available on our website at <https://www.scottishlegalcomplaints.org.uk/your-complaint/>
- 4.8 In 2018-2019 we received 1,326; the highest incoming numbers we had ever received.
- 4.9 The next three years were 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:

Table 1: Incoming complaint numbers by year

Year	2018/19	2019/20	2020/21	2021/22
Incoming complaints	1,326	1,036	1,054	1,159

- 4.10 That drop may have been accentuated by 2018-2019 being an exceptionally high year for incoming complaints.
- 4.11 As of end December 2022, as we finalised the consultation document, we had received 638 complaints in the year, compared to 572 in the same period last year, placing us 11% up on the year to date.
- 4.12 When the Board met in March to consider the consultation responses incoming complaints to end February, we were at 851 (compared to 766 in the same period last year). This continues to place us 11% up on the year to date.
- 4.13 However, within that there are a number of linked cases. These can be more efficient to administer, although often this is not known until every case has concluded. They also skew the incoming rate, arriving as a batch. We are currently not aware of any others sets of linked cases (although it is always possible). On this basis we think the incoming rate may even out over the final four months of the year.
- 4.14 On that basis, our best prediction for year end 2022-2023 is that we will see a 5% rise in cases on the previous year. This is more consistent with the long-term trend.
- 4.15 For the year this budget relates to (2023-2024) we are also estimating a further 5% increase in incoming.

Table 2: Complaints about lawyers – numbers by year

Complaints about lawyers	2019-2020 Actual	2020-2021 Actual	2021-2022 Actual	2022-2023 Forecast	2023-2024 Forecast
Complaints incoming and requiring a formal prematurity and / or eligibility determination.	1,036	1,054	1,159	1,217	1,278
Of those eligibility decisions, ‘Frivolous, Vexatious or Totally Without Merit (FVTWM)’ and ‘Time bar’ are reserved to Commissioners:	224	180	222	233	245
Full service mediations will be required on the following:	45	90	80	84	88
Full service investigations will be required on the following:	445	350	350	368	386
Case not resolved at eligibility, mediation or investigation and requiring a panel of three commissioners to make the final determination	198	131	133	140	147

4.16 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.

4.17 Detailed information on our past performance and complaint volumes can also be found on our website at <https://www.scottishlegalcomplaints.org.uk/about-us/who-we-are/our-annual-report>.

Complaints about lawyers - Key Performance Indicators (KPIs)

4.18 Before the start of the business year 2023-2024 our Board will set specific targets, based on advice from the management team, and taking into account:

- the latest performance data available
- the anticipated incoming complaints for the year ahead
- the improvement in performance the organisation wishes to see.

4.19 KPIs are set, and then monitored by the management team, with assurance being presented every two months in Board meetings, on areas such as:

- Work in Progress within the business
- The time taken from receipt of a complaint, to allocation to a dedicated staff member to start the first stage of the process
- Whether production targets by staff and teams are achieved (productivity)
- Journey time for the complaint to be completed
- The early resolution rate (how many complaints can be settled without formal determination)
- Cost per case.

Other case related activity

4.20 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).

- 4.21 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).
- 4.22 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.

Table 3: Other case types - numbers by year

Others case types	2019-2020 Actual	2020-2021 Actual	2021-2022 Actual	2022-2023 Forecast	2022-2023 Forecast
Handling complaints	8	15	9	9	9
Freedom of Information Requests	33	24	21	20	20
Data Subject Access Requests	50	36	27	20	25
Appeals	12	9	10	10	10

Other case related activity - KPIs

- 4.23 Handling complaints – respond in 14-21 days for eligibility, 4-8 months for investigation dependent on complexity.
- 4.24 Freedom of Information Requests – statutory duty to respond to all cases within 20 working days.
- 4.25 Data Subject Access Request – statutory duty to respond to cases within 1 month (with an extension available on complex cases of 3 months).
- 4.26 Appeals – less than 2.5% of cases appealed.

An end and a beginning

- 4.27 This year we continue with all of our four-year strategic themes set out in 2020-2024.
- 4.28 As noted earlier (para 1.9) our focus is on delivering our core business as usual around complaints and oversight while in a high change context dictated by the six other projects listed in that section.
- 4.29 These are priorities because they are fundamental changes which will help us to be more efficient and effective in the future and help us to manage our costs.
- 4.30 These areas of work are all aligned to themes that were already present in our strategy, but also seize on opportunities coming from new ways of working tested during Covid-19.
- 4.31 A final impact is in terms of the strategic theme on 'People'. When setting the strategy in 2020 we had an ambitious set of goals in this area. All of these remain relevant, but all have been altered by Covid-19 and the possibility of reform. For example, we had committed to consulting on and piloting more flexible ways of working; this was overtaken by lockdown and all our learning on what is possible. We have continued to look at new career pathways, and have created new roles, but further substantive work is on hold until we understand how reform may impact our workforce needs.

Other statutory duties

- 4.32 We have a range of other statutory functions which must also be included among our annual priorities. These include our statutory duty to monitor trends in complaint handling and issue guidance on best practice.
- 4.33 Last year we updated our statutory guidance on complaint handling³ and published it in an accessible format on a newly developed 'Guidance, advice and tips for lawyers' section on our website. We have also updated our advice on making a complaint, and on our complaints process, to help the public feel confident in taking a complaint to their lawyer or making a complaint to us.
- 4.34 As part of our statutory oversight functions, we deal with handling complaints about how an RPO has investigated a conduct complaint, monitor trends in conduct complaint handling and make recommendations for improvement. This year we published a report on the Law Society's conduct complaint handling timescales, and made three statutory recommendations for improvement.⁴
- 4.35 We also monitor the effectiveness of the Client Protection Fund (Guarantee Fund) and Master Policy (these are insurance arrangements which help protect clients). Last year we published a report⁵ with recommendations on the Master Policy arrangements and set out plans to monitor this over the next five years. All of our oversight work is guided by our statement on our approach to oversight⁶.
- 4.36 In addition, we provide the secretariat, support and funding for the statutory Consumer Panel⁷. The Consumer Panel makes recommendations on how the SLCC can improve its work, as well as making representations on other matters relating to legal services, complaints and regulation.
- 4.37 The remainder of our planned operating activity supports these additional statutory duties or supports or enhances our complaints functions.

Our operating plan

- 4.38 Our operating plan details our planned activity for 2023-24 to deliver our statutory duties and to support, improve or enhance our work across a number of key areas.
- 4.39 Our detailed operating plan is published separately. However, this section summarises the main work to provide context to the budget.

Users

- 4.40 Actions set out in our detailed operating plan include:
- Deliver a customer service project to review the full process for collecting and reporting on feedback from users on the complaints process
 - Audit the use of new accessible English templates

³ <https://www.scottishlegalcomplaints.org.uk/for-lawyers/guidance-advice-and-tips/improve-your-complaints-process-statutory-guidance/>

⁴ <https://www.scottishlegalcomplaints.org.uk/about-us/news/slcc-makes-recommendations-for-improvement-to-law-society-complaint-handling-timescales/>

⁵ <https://www.scottishlegalcomplaints.org.uk/about-us/who-we-are/oversight-research/research-trends-in-practice/master-policy/>

⁶ <https://www.scottishlegalcomplaints.org.uk/about-us/who-we-are/oversight-research/research-trends-in-practice/master-policy/>

⁷ <https://www.scottishlegalcomplaints.org.uk/about-us/consumer-panel/>

- Produce a suite of tools and case studies for complaints based on feedback about what the profession finds most useful
- Update our guides for consumers, testing with consumer groups and promoting through relevant channels.

Improvement

4.41 Actions set out in our detailed operating plan include:

- Continue to promote the value of early resolution through outreach communications and social media
- Continue to pursue all means of escalation to tackle the persistent issue with firms not responding when we request documents and explanations
- Follow up recommendations made from our review of LSS conduct investigation timescales
- Publish a report on Faculty's conduct complaint handling processes
- Review our oversight strategy in light of any indicators in new legislation on the future of the oversight functions to ensure alignment
- Deliver our statutory guidance in bite-sized videos
- Deliver our engagement plan on the Legal Services Regulation Reform Bill and develop implementation plans (if relevant in terms of implementation times)
- Reuse office furniture and supplies in the office move, source new items in a sustainable way and measure energy use to allow publication of savings made in new office
- Finalise implementation of the LS(S) Act 2010 within the SLCC including ensuring our website contains consumer information and complaints forms, and relevant information for the profession.

Digital

4.42 Actions set out in our detailed operating plan include:

- Complete the roll out of a full cloud-based network, with no office dependency
- Explore the possibility of a data maturity audit to inform the development of a new data strategy
- Further develop the breadth and depth of our use of Power BI to improve reporting and analytics
- Ensure accessibility is fully embedded in our ways of working through digital exclusion checks, ongoing improvements to our website/ digital accessibility and new processes.

People

4.43 Actions set out in our detailed operating plan include:

- 1 year review of how the new operating model has worked collecting experience of all staff, and of line managers on management issues
- Consult on, and if appropriate issue, new terms and conditions (taking account of the office move) and new job descriptions
- Embed a new method of interviews that includes giving candidates questions in advance
- Continue to support the new career pathways we have created
- Complete a relocation to a new property including moving people, office kit out, updating templates and contact details, external comms, etc., etc.
- Engage staff in planning the office layout and move

- Deliver a training programme supporting the full operating plan and provide training and coaching to support the office move
- Monitor the passage of the Retained EU Law (revocation and Reform) Bill 2022 and assess the potential impact on our people, data, and other policies.

Consumer Panel

4.43 The statutory Consumer Panel is part of the SLCC and is funded and supported by it. However, it has a remit defined in law and its decision making and prioritisation is independent of the SLCC's Board and Executive.

4.44 Whilst the SLCC's adjudication functions are impartial, the Consumer Panel exists to ensure an equal voice for consumers in a context where professional input is more readily available from established and well-funded organisations. It also assists in ensuring services are equally understandable and accessible to all, again in a context where lawyers already find this easier due to their professional knowledge and expertise.

4.45 The Consumer Panel's planned priorities are:

- Provide input and advice to the SLCC in delivering its change and improvement work to ensure it meets consumer needs
- Support the SLCC in its work on customer feedback
- Draw learning from SPSO project on child friendly complaints to improve SLCC processes
- Ensure consumer input to the Parliamentary debate on the Legal Services Regulation Reform Bill
- Input to the SLCC's update of its guides for consumers, drawing on insight into consumer need
- Consider any learning from or response to wider consumer policy, including the implementation of the Consumer Duty.

Our operating plan – including our other statutory duties - KPIs

4.46 Our Board sets a global operating plan delivery target of 85% of projects fully delivered on time and on budget. Where there are variances (external factors, overrun outwith control, etc.) these are raised with the Board quarterly.

5 Where can we find efficiencies?

- 5.1 We are committed to finding efficiency savings each year. Where possible, we use these to offset the need for increases to the general levy, as we are proposing this year.
- 5.2 **In previous years we have set out savings made each year in this consultation.** Past examples continue to deliver annual savings, including:
- Reduction in senior management numbers
 - Reduction in staff numbers from 2019-2020 onwards
 - Reduced member costs
 - Successful 'agile' testing of over 87 changes to our core complaints process to assess their impact in efficiency, with many delivering results (see reduced staff costs, below)
 - Pension savings negotiated with Lothian Pension Trust, as we have made arrangements for the final closure of the scheme inherited from the Scottish Legal Services Ombudsman
 - Bringing payroll in-house
 - Lease savings negotiated with our landlord, as well as decreasing the floor plate we rent
 - Reductions in print and IT costs
 - Significant cuts in staff and members costs in the two Covid-19 impacted years
- 5.3 **In 2022-2023 we have been working on major efficiency projects but will not see the impact of these until future years.** We have focussed on changes to IT and staffing which empower greater remote working. This in turn allows us to downsize our property. We have just announced that we have served the break clause notice on our current premises and are closing negotiations on a move to a new office, around half the size of our current office space. This action will lead to significant savings over the next five to ten years, but at the moment each of the projects to empower that move has had upfront costs.
- 5.4 In the coming year we expect an efficiency saving of around £28,227 of property costs (as we move part way through a year). Over the first five years of the lease we expect a total saving of around £500,000.
- 5.5 In other areas any small gains made in efficiency have been offset by inflationary pressures on costs of services and supplies.

6 What increases costs in the environment we work in?

Incoming complaints numbers

- 6.1 Over the longer past term a key driver of costs was increasing number of complaints.
- 6.2 As complaints dropped during the pandemic, savings were quickly passed on to the profession, with two consecutive years of reductions in the levy.
- 6.3 Section 4 discussed our past and predicted level of case work, with projections of an increase on last year of 5% in 2022-2023, and a further 5% in 2023-2024.
- 6.4 This impacts cost as we need to increase staffing to ensure we can process the complaints in hand. Staffing dropped to 52.86 in 2021-2022, but is now 55.17 (2022-2023), and is projected to be 56.06 in 2023-2024.

Operating cost increases

- 6.5 **Salaries** – each year we must award at least the minimum Scottish Government pay settlement. No decision has been made on pay increases for the coming period. However, we have been advised that bodies should include provision for a pay deal within budgets.
- 6.6 We have made provision for an additional **£76,000** to meet this requirement.
- 6.7 Any additional increases would be funded from reserves.
- 6.8 Other cost increases this year are:
 - IT costs (**£41,045**)
 - Corporate Legal costs (**£45,000**)
 - Section 17 Legal Costs (**£85,000**).

Structural issues affecting cost

- 6.9 **We continue to see a measurable increase in the complexity of complaints**, with the number of distinct issues per complaint increasing. This increase in complexity is something other complaints bodies are also reporting.
- 6.10 **We have work planned to try to prevent the common causes of complaints**, and continue to see this as one of the primary ways to avoid cost increases.

Failures of the profession to respond as a driver of cost

- 6.11 In previous consultations and annual reports we have highlighted the cost of having to repeatedly chase solicitors for files, and moving to legal action to obtain them. This continues to be a significant issue affecting our ability to deliver a swift complaints process and to drive further efficiencies, and therefore a significant avoidable cost for the profession.
- 6.12 Every year, 30-40% of requests for responses or client files are ignored by solicitors, despite the SLCC having legal powers to access these. Polite reminders and supportive discussions with firms have had little effect, and last year we activated our plan to take any solicitors who fail to comply to court. We continue to monitor the impact of this approach.

6.13 We have reported publicly on early cases, hoping that it promotes a better response from the profession in the future. For example:

- <https://www.scottishlegalcomplaints.org.uk/about-us/news/next-step-in-legal-action-to-access-files-for-investigation/>
- <https://www.scottishlegalcomplaints.org.uk/about-us/news/further-success-for-slcc-in-securing-files/>
- <https://www.scottishlegalcomplaints.org.uk/about-us/news/court-orders-contempt-of-court-hearing-following-slcc-petition-to-secure-a-file/>
- <https://www.scottishlegalcomplaints.org.uk/about-us/news/contempt-of-court-hearing-sees-costs-awarded/>

6.14 We have also recently had clarity from the court that confidential information is accessible to the SLCC (although not information covered by legal professional privilege) even in third party cases where the client refuses access:

- <https://www.scottishlegalcomplaints.org.uk/about-us/news/slcc-comment-on-court-of-session-ruling/>

6.15 We are pleased that the Law Society of Scotland (LSS) has now taken actions to assist with this issue. Firstly, passing a rule to make clear that non-compliance with the SLCC is a conduct matter. Secondly, updating its guidance to make clear confidential information should be provided.

6.16 However, our ongoing enforcement requires significant expense:

- **Staff and management** time in reminders, tracking cases, making enforcement decisions, working with lawyers, updating parties – all this is waste; time and cost which would not need spent if lawyers complied with their statutory duties.
- **Legal costs** – on advice, and on the initial pre-court correspondence which is required – despite awards of costs, not all of this is recoverable.
- **Governance costs** – the issue is taking Board time, Audit Committee time, is being discussed in our audits, etc.
- **Communication costs** – as we seek to encourage the profession to comply, when this should already be happening or could be done more efficiently by others who have access to the contact details for the whole profession (which the SLCC does not).
- **Ancillary costs** – sheriff officers to serve papers, additional courier costs.

6.17 In our strategy we committed to fully exploring all levers to encourage compliance with statutory requests for firms to provide files and information to allow us to investigate complaints. In Section 9 we set out our decision on the proposal to increase the level of the complaints levy. This could encourage compliance and assist with recovering some of the additional costs incurred in these cases to help to reduce the impact of this expense on the wider profession through the general levy.

Process complexity

6.18 Since 2015 we have been active in discussing the uniquely complex, duplicative, and costly complaints process set out in statute. This is in stark contrast to much simpler and more efficient models for other complaints bodies in Scotland, or legal complaints bodies in other jurisdictions, which deliver the same level of effectiveness. Our eligibility stage, which was meant to be the ‘quick sift’ continues to consume more resource than investigation and adjudication combined due to the statutory provisions, again in contrast to the distribution of resource in the majority of complaints bodies.

6.19 Process reform at the SLCC had been on three levels for a number of years:



6.20 We were pleased that the Scottish Government has consulted on the medium-term changes described above. There was support for most of the recommendations. However, this work has now been put on hold by Scottish Government, to focus resource on longer term reform.

6.21 The work carried out remains valuable, and will help inform our response to the longer term reform debate, but it does now mean no saving will be delivered through this workstream.

6.22 We are also pleased that the Scottish Government has made a commitment in the Programme for Government to introducing new legislation within this parliamentary year (by summer 2023) to reform complaints handling.

6.23 A broad statement of intent was issued by the Scottish Government on 22 December 2022. However, there is not sufficient detail at the moment to make any estimates about impact on operations or cost. This, alongside the likely timescale for any implementation, means this budget must be based solely on the current model and costs.

6.24 While we believe there is the opportunity for significant longer-term efficiency through reform, there is a cost to engagement in the reform debate which is reflected in this year’s budget and there will be costs in future years to cover the implementation of a new Act.

6.25 **We continue internal quality improvement work across three domains:**

- The time a complaint takes from the day of submission to the final outcome
- The customer satisfaction scores of those who use our services
- The quality and clarity of information provided and of the final decision issued – especially in terms of clear, accessible and understandable language and reasoning.

6.26 Further details of past financial performance, in our published accounts, can be found at:

<https://www.scottishlegalcomplaints.org.uk/about-us/how-we-are-funded/our-annual-accounts/>

Audit Scotland publish the outcome of their audits of our financial performance, and these are available on their website at: <https://www.audit-scotland.gov.uk/report/search?search=Scottish%20Legal%20Complaints>

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

7.1 This section contains the key information on the overall budget and expenditure. It sets out the key statutory levies we need to consult on each year.

Overall income and expenditure

- **Anticipated income:** £4,102,723 (up from previous year - £3,736,656)
- **Anticipated expenditure:** £4,259,147 (up from previous year - £3,870,446)

Levies – individual lawyers (2007 Act)

- **General levy:** £ 484* (previous year £444)
- **Complaints levy:** £7,000** (previous year £5,000)

** the majority of lawyers pay a discounted rate well below this*

*** this is the highest rate that could be charged, see paragraphs 9.3-9.14*

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)

7.2 Definitions of these levies, and further details on the approach we have taken to the budget, expenditure and levies are in **Sections 8 & 9** below.

7.3 The full budget, and details of levy discounts, can be found in **Appendix 1**.

8 Approach to budgeting

- 8.1 In line with policy and the practice followed in past years, we followed the approach set out in this section.
- 8.2 As context, the last three years of financial and operational performance are reviewed.
- 8.3 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.
- 8.4 Three-year projections of income, expenditure, and reserves are created, giving a longer-term indicative model.
- 8.5 This is then mapped to the Scottish Government's five-year financial strategy – to give wider public sector context.
- 8.6 We then set out anticipated expenditures based on our operational plan.
- 8.7 The general levy is 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).
- 8.8 The current year forecast outturn at December 2022 is reviewed, together with the results for the financial year to 30 June 2022. This provides an estimate of anticipated reserves at year end, and the implications for the general levy for 2023-2024.
- 8.9 The proposed levy is set, and the budget is issued for consultation.
- 8.10 The responses to the consultation must, by law, be published before the end of March 2023.
- 8.11 The draft budget is reviewed, taking into account consultation responses and a further quarter's financial data.
- 8.12 We set the final budget and lay it before Parliament by 30 April 2023.
- 8.13 The final operating plan is set in May 2023.

9 Further details on levies

The general levy

9.1 The general levy has been noted in **Section 7** (above). However, for completeness the proposed general levy is:

- **The general levy is £484** (last year £444)

9.2 The majority of levies are discounted, and further details are available in Appendix 1.

The complaints levy

- 9.3 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.
- 9.4 Since July 2019 the complaints levy has been £5,000. Prior to that it was £3,500 from July 2012. We operate a policy of discounting this levy amount where a firm has handled the complaint well, and taking into account various other factors as outlined in our complaints policy.
- 9.5 The levy of £5,000 is calculated from the cost of a complaint which has gone through every stage of the complaints process to determination (only around 10% of our total caseload) and requires a panel of three independent Commissioners to make the final decision.
- 9.6 In our strategy we committed to fully exploring all levers to encourage compliance with statutory requests for firms to provide files and information to allow us to investigate complaints. Our current complaints levy policy already allows discounting of the levy charged on upheld complaints where Determination Committees consider that firms have met certain criteria, including dealing promptly with our requests.
- 9.7 However, as a clear incentive for firms to comply we sought views on a proposal to raise the complaint levy by £2,000 to £7,000, alongside a reformed complaint levy policy that would only see this higher rate full levy charged where a firm is judged to have failed to respond to a statutory request without any appropriate mitigating explanation.
- 9.8 This higher levy rate would reflect the additional time and cost required to manage these cases, including staff time, additional correspondence with parties, and some of the unrecoverable costs of instructing solicitors and starting court action to recover the file. This would help to reduce the impact of this expense on the wider profession through the general levy.
- 9.9 We received feedback from consumer groups broadly welcoming action to tackle this issue to avoid delays for complainers and noting the impact of this cost on the wider profession. However, we received feedback from the Law Society saying we should allow other measures to bed in first to see if they have the desired impact. They also stated that if we decided to proceed, we should consult further.
- 9.10 We have decided to take the opportunity to set the levy for this year at £7,000. We can only change the levy following the budget consultation, so we would otherwise have to wait until July 2024. However, we have taken on board the Law Society’s suggestion for further consultation with the wider profession on this proposal.

- 9.11 We will therefore set an automatic discounting of that levy to £5,000 (the current complaint levy) for all cases. This means no levy over £5,000 will be applied for the next four months, with all of the existing discounting policy in place. During that time, we'll carry out a targeted further consultation with the profession on this approach. We'll ask the Law Society to help us with this to ensure we can reach out to all their members and get as broad a response as possible. We will make a similar offer to the Faculty of Advocates and the Association of Commercial Attorneys if they wish.
- 9.12 The outcome of that consultation will be considered by our Board to determine next steps. We would highlight that if the decision is to proceed, we would only ever be charging the highest rate in cases where the existing measures don't act as a deterrent.
- 9.13 Given this approach, and the uncertainty of the impact of any change in the top rate, should it be applied, we have made no changes to our budget.
- 9.14 The current full complaints levy policy can be found at:
<https://www.scottishlegalcomplaints.org.uk/media/1341/ch037-complaints-levy-policy-from-01-july-2019-v0101-201905-public.pdf>

▪ **The complaints levy is £7,000** (last year £5,000)

Alternative Business Structure (ABS) Approved Regulator (AR) and Licensed Provider (LP) levies

- 9.15 **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.
- 9.16 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).
- 9.17 However, new work is required every year. For example, this year we updated our rules to cover our new duties under the scheme. We updated our website and carried out a review of our complaints manual based on an assurance from the Society the scheme would have launched within this current year. We also responded to promptly to feedback from the Society on our Approved Regulator Complaints scheme and updated this.
- 9.18 In the coming year, further work will be required as we move to finalise implementation, and there will be an ongoing need to deal with enquiries, update communications and support work in this area. Much preparatory work to date may now be superseded by reform, meaning systems need rebuilt. After a thirteen-year delay in implementation repeated duplication of costs is inevitable.
- 9.19 We have once again been told that the Society will start licensing firms this year. The fee must ensure the work we must do is not subsidised by income from the general levy. We are therefore setting the same levy as last year.
- 9.20 No Approved Regulator complaints have been received.
- 9.21 This levy will be collected.
- 9.22 In future years this levy may fluctuate significantly again, depending on the work we have to carry out.

9.23 **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 two 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).

9.24 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 Approved Regulator levy is £10,000** (last year £10,000).
- **The Approved Regulator complaints levy (for a complaint that is upheld) is £8,000** (last year £8,000).

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

9.26 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 2023, when the first levy will be collected. As a consequence, it may be that no fees are collected.

9.27 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.

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

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

10 Reserves

- 10.1 We currently hold reserves of £1,490,912 at the start of the 2022-2023 financial year.
- 10.2 This figure is now within the parameters set out in the reserves policy.
- 10.3 This policy is constantly under review based on risks and operating costs. In previous years reserves were lower than the policy threshold, and we have been seeking to address that following clear guidance from our auditors.
- 10.4 The budget agreed for this year envisages using some reserves to support a deficit budget. We are forecasting additional property costs for 2023-24 only.
- 10.5 As noted (para 1.8) there are also some costs associated with long term changes that again will be one off costs in 2023-2024. These costs are being funded from reserves.

11 Income

11.1 We have based income on:

- Anticipated income from the **general and AR levies**. This is forecast to be £3,828,074 for 2023-2024.
- Anticipated income from the **approved regulator levy**. This is forecast to be £10,000 for 2023-2024.
- Anticipated income from **interest earned on deposits**. This is forecast to be £39,249 for 2023-2024, thus reflecting current and anticipated levels of investment return.
- Estimated **complaints levy** income of £225,400 has been recognised for budget purposes for the financial year 2023-2024. This reflects the changes made to the complaints levy policy three years ago, the level of awards now being made at the Determination Committee stage of the process, and the level of recovery. Development of this source of income, to reflect the costs incurred on such cases, helps lessen future rises in the general levy. This does not take account of any potential changes arising from a change in the top rate of the levy, should that be implemented following the planned further consultation.

11.2 To fund the estimated expenditure it is then envisaged there will be a release from **reserves**. This is forecast to be £156,424 for 2023-2024.

Appendix 1: Draft budget for 2023-2024

Summary of levies, income and expenditure

Proposed 2023-24 Levy & Budget	
Actual General Levy Set	£
Private Practice Solicitors +3 Years (Principals/Managers)	484
Private Practice Solicitors +3 Years (Employed)	393
Conveyancing or Executry Practitioner 3+ years	393
Solicitors in first 3 years of practice	166
Practising outwith Scotland	129
In-house Conveyancing or Executry Practitioner	118
In-house Lawyers	118
Advocates +3 Years	186
Advocates in first 3 years of practice	156
Association of Commercial Attorneys	125
Total Actual Levy required from each Professional Body	£
Law Society of Scotland	3,747,709
Faculty of Advocates	79,740
Association of Commercial Attorneys	625
	3,828,074
Income and Levy	
Levy from Law Society of Scotland	3,747,709
Levy from Faculty of Advocates	79,740
Levy from Association of Commercial Attorneys	625
Contribution from Complaint Levy	225,400
Approved Regulator Levy	10,000
Estimate of Interest Earned	39,249
	4,102,723
Expenditure	
Staff and Related Costs	3,050,384
Non-Staff Costs	1,040,043
One-off Costs	168,720
	4,259,147
Budget Deficit	(156,424)
Release from SLCC Reserves	156,424
2023-2024 Budget Position	0

Breakdown and comparison of expenditure and levy

Proposed Expenditure 2023-24			
	2022-23 Budget £	2023-24 Budget £	Variance 22-23 Budget £
Direct Staff Costs			
Staff salaries and NIC	2,673,593	2,899,134	(225,541)
Reporters	5,000	5,000	0
Member Salaries and NIC	80,000	80,000	0
Total Staff Costs	2,758,593	2,984,134	(225,541)
Indirect Staff Costs			
Staff training & development	30,000	30,000	0
Member training & development	6,500	6,500	0
Staff travel & subsistence	1,500	1,500	0
Member travel & subsistence	7,500	5,000	2,500
Other staff costs	21,133	23,250	(2,117)
Total Indirect Staff Costs	66,633	66,250	383
Non Staff costs			
Property costs	349,614	321,387	28,227
Office running costs	57,026	57,022	5
Mediation and associated Costs	55,600	52,625	2,975
Appeal Legal costs and advice-case specific	150,000	150,000	0
Section 17 Legal costs and advice-case specific	0	85,000	(85,000)
Communication	24,500	22,345	2,155
IT	215,000	256,045	(41,045)
Corporate Legal Costs	30,000	75,000	(45,000)
Audit	27,730	29,260	(1,530)
Special projects & research	15,000	15,000	0
Investment to reduce Office Dependency	25,000	0	25,000
Property Project	0	50,000	(50,000)
Bad debt Provision	45,750	45,080	670
Capital expenditure Depreciation	50,000	50,000	0
Total Non Staff Costs	1,045,220	1,208,763	(163,543)
Total Expenditure	3,870,446	4,259,147	(388,701)
Income			
Levy Received	3,523,065	3,828,074	305,009
Complaints levy	183,000	225,400	42,400
Approved Regulator Levy	10,000	10,000	0
Interest Earned	20,500	39,249	18,749
Other Income	0	0	0
Total income	3,736,565	4,102,723	366,158
Surplus/(Deficit)	(133,881)	(156,424)	(22,543)

Levy Income

Actual General Levy Set	Levy	No's	Income
Private Practice Solicitors +3 Years (Principals/Managers)	484	3,192	1,544,928
Private Practice Solicitors +3 Years (Employed)	393	3,636	1,428,948
Conveyancing or Executry Practitioner 3+ years	393	4	1,572
Solicitors in first 3 years of practice	166	1,024	169,984
Practising outwith Scotland	129	1,041	134,289
In-house Conveyancing or Executry Practitioner	118	3	354
In-house Lawyers	118	3,963	467,634
Advocates +3 Years	186	370	68,820
Advocates in first 3 years of practice	156	70	10,920
Association of Commercial Attorneys	125	5	625
		13,308	3,828,074