



scottish legal  
complaints commission **slcc**

**Annual Report** 2017-18

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# Chair's introduction



The Robertson Review of the regulation of legal services in Scotland published in October could have far reaching implications; not only for the regulation of professionals and organisations providing legal services, but also for how complaints about solicitors and advocates are treated in the future. Its recommendations, many of which are in agreement with submissions made by the SLCC, could lead to significant structural change in the regulation and complaints landscape that we work in today – particularly for the SLCC. It is widely anticipated that the Scottish Government will want to consult on any changes arising from the Review. While it is important that time is taken to ensure that a considered outcome is achieved, in the interest of the public, those who are regulated, and those who work in regulatory and complaints bodies, I would urge that everything possible is done to avoid a lengthy period of uncertainty around change. But change is definitely needed.

Over the last few months I had made clear my view of the shortcomings in the complaints system we have in Scotland. The system is not consumer friendly. It is cumbersome and overly rigid, with procedures set out in statute, which puts

complaint handling into an inefficient straitjacket denying flexibility and building in delay. The appeals process, which involves appealing to the Court of Session, is not only expensive and slow, but builds in a cultural approach which is overly legalistic and leaves Scotland with an embarrassing anachronism compared to other modern complaint handling procedures across most sectors in the UK. The system needs urgent revision.

The impact which delay can have for complainers is pretty clear, though at the SLCC we are working hard within the constraints put upon us by legislation to find speedier, efficient processes to reduce journey times. What may be less obvious is the impact of lengthy and cumbersome procedures on solicitors and advocates. The levels of concern and stress of those whose actions are under investigation are certainly exacerbated as a result, and not enough has been done in the past to highlight this issue. The complaints system should be helping complainers and those who are complained about to have issues dealt with and closed quickly with as little stress to all parties involved as it is possible to achieve. It should not add to their stress.

# The system is not consumer friendly. It is cumbersome and overly rigid.

The funding model for the SLCC also requires urgent attention. Currently the SLCC is funded through an annual levy on individuals holding practising certificates. Legal services in Scotland is a multi-million pound industry. Yet there is currently no provision for firms or organisations to pay towards the legal sector's complaints procedure. In 2018 this has to be an unacceptable state of affairs.

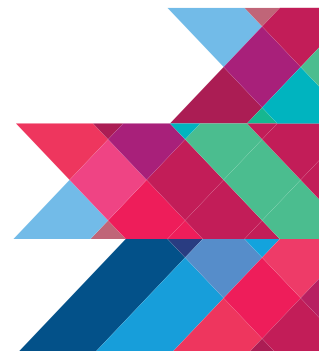
The SLCC does not even have direct access to a complete list of those who fall under our jurisdiction and who are therefore eligible to pay the levy the SLCC sets. All of this information is held by the Law Society of Scotland, the Faculty of Advocates, and the Association of Commercial Attorneys.

This means the SLCC is prevented from communicating directly with those who fund us to explain how we have determined the level of the levy, and to listen to their views. It also means that in order to determine whether the people complained about do fall within our jurisdiction, we have to undertake slow and laborious manual checks against website lists, often with follow up phone calls and letters to confirm their status.

Then each year there is a war of words between the SLCC and representatives of advocates and solicitors as to where the levy on the profession should be set to fund the SLCC's activities. I understand why this happens and understand why those asked to pay the levy want us to pitch it as low as possible. We have to weigh these concerns against the onus on the SLCC to provide an effective professional service. Regardless of the recommendations of the Robertson Review, this issue needs to be addressed urgently

Since joining SLCC as Chair in January, I have nothing but praise for the commitment of staff, management and board members and the work they do to make the current system work as well as it can, and for their courage to be open and honest about the current problems the system faces and the need for change. This must be the year that serious reform starts.

**Jim Martin, Chair**



# Foreword



There is no doubt that the most dominant theme of the year past, and indeed the last three years, is that complaints are rising. This year we saw a further 6.2% increase, meaning an overall 22% increase in the last three years.

Every case needs to be examined and considered against a complex set of legal tests at the 'eligibility' stage of our process. In most cases, we need to liaise with the parties, and the relevant professional organisation, before producing a determination report which must be enough to withstand appeal to the Inner House of the Court of Session. This must occur whether or not the complaint is admitted to later stages in the process.

Perhaps more worryingly, we are also seeing a culture of firms failing to engage with complaints, with 42% of those lawyers we contact at investigation not responding to our initial communication. This adds to costs and delays, reduces the chance of informal resolution, and raises concerns about the level of engagement with the current regulatory and complaints model.

These trends let down both the many lawyers providing good service (who end up sharing the non-compliance costs of others) and the public (who ultimately pay the fees).

We have considered the evidence on what underlying causes might be increasing complaints. This included consulting with other organisations in the sector. However, there is no obvious factor – complaints are increasing across every category of legal practice. It could be due to an increase in the number of legal transactions being carried out, or to changes in consumer expectations of service. While the functioning of the market in these ways is beyond the SLCC's current remit, the sector must consider the trends and what actions they may wish to take. For a decade the conveyancing market has been the leading cause, and an action plan to target issues in that area could be a step forward.

Regardless, while efficiency improvements continue to be delivered across the SLCC's operations there is a real challenge in handling an ever-increasing workload.

## All of these achievements are testament to an engaged and talented staff team.

To tackle this we have: put in place a further programme of internal process improvement work; worked throughout the year with the Law Society of Scotland to look for possible changes to legislation which could be made by regulations (rather than primary legislation); contributed to the independent review of legal regulation – publishing our response to that review’s ‘call for evidence’ in March in the form of a Roadmap for Improvement (the last in our series of *#ReimagineRegulation* papers). We were delighted to say most of our recommendations were adopted.

We have also made considerable progress in other areas this year. We have created ‘easy read’ guides to increase the accessibility of our services, received our first plain English ‘Crystal Mark’ accreditation, and published a new video and written materials to encourage the take up of our mediation service. We signed up to the Scottish Government’s ‘Social Impact Pledge’ and published our three-year report to meet the requirements of the Scottish Biodiversity Duty. We completed a programme of work to ensure our compliance with the GDPR and started work to formally meet the requirements of an externally-assessed cyber security standard. Throughout the year we met, and engaged with, representatives of the Law Society of Scotland, Faculty of Advocates and Association of Commercial Attorneys, and we thank them for responding to our planning consultation in January.

Financially speaking, one of the biggest projects of the year was a review of the property market in Edinburgh and surrounding areas to look at options as we came to the end of our lease. After evaluating our options, and seeking the approval of the Minister, a new lease has been signed, giving us five, and potentially ten, years of certainty and an immediate five-year saving of over £80,000.

Throughout this report you will find other examples of challenges and achievements. All of these achievements are testament to an engaged and talented staff team, whose ‘helpfulness’ is consistently one of the top scoring factors in our feedback from the public and profession alike.

I’d finish by thanking our former Chair, Bill Brackenridge, for all his support in the first half of the year, and thanking our new Chair, Jim Martin, for his enthusiastic taking up of the role. Our board has provided continuity and expertise throughout the transition, and with three years before further changes in our board composition we have a strong team to meet the demands ahead.

**Neil Stevenson**  
Chief Executive

# Our Board



Figure 1 SLCC Board, back row left to right: Denise Loney; Jim Martin (Chair); Sarah McLuckie; Neil Stevenson (CEO); Kay Springham QC; Sara Hesp. Front row left to right: Dr Michelle Hynd; Morag Sheppard; Emma Hutton; Amanda Pringle.

With the appointment of Jim Martin as our new Chair and Morag Sheppard as a new lay member, our board has been finalised for the next three years.

In last year's annual report our board focused on our current work. This year, part of the board's work has been in contributing to the debate on legislative change. Here are some of our priorities:

Better outcomes for consumers and the legal market achieved through agile, future-proof, responsive and proportionate regulation that manages risks, aids choice, improves quality of services and is transparent and accountable in its operation.

**1** Delivering a better statutory framework: simple, understandable, agile, proportionate, affordable, fair

AMANDA

“The current framework for regulation of legal services in Scotland is derived from a number of sources and that can often result in confusion and a lack of understanding for service users and members of the profession. A consolidation of these various sources into one simplified framework would be of benefit to both clients and their lawyers.”



<p><b>2</b> Enabling a focus on the needs of consumers and clients, including reducing risk and improving quality: using data sharing, co-production, and consumer research to identify issues, and then target interventions</p>	<p><b>SARA</b></p>	<p>“A number of organisations hold relevant information on law firms. Unfortunately, there’s little sharing of this data and opportunities to avoid consumer risk and harm are missed.”</p>
<p><b>3</b> Affording opportunities to innovate, and delivering greater and more informed choice: legal services can be provided in a variety of ways and innovation is encouraged, leading to greater consumer choice, adaptation to globalisation, and a sustainable market</p>	<p><b>EMMA</b></p>	<p>“Any new legislation or framework needs to allow innovation and be flexible to change in the decades to come. Planning for digital regulation and digital business models will mean that regulators can keep up with a changing market.”</p>
<p><b>4</b> Increasing trust and confidence in regulation and the sector: an independent, transparent and accountable model, with joined-up and co-ordinated ‘end to end’ regulation and redress</p>	<p><b>MORAG</b></p>	<p>“It is challenging to build public trust in the current regulatory arrangements, where accountability is not consistent over the five bodies involved in complaints. The SLCC is committed to building trust amongst both consumers and lawyers by providing a service which is easy to access, independent and even-handed, and which delivers fair outcomes.”</p>
<p><b>5</b> Ensuring better protection and faster redress: a single gateway, enabling fast and proportionate processes, ensuring redress is received when appropriate, and avoiding duplication and delay</p>	<p><b>SARAH</b></p>	<p>“The current complaints system is a maze. A single investigation would be faster, cheaper, and allow a more proportionate approach to complaints. Just now, we have to categorise parts of a complaint as conduct or service and this means a trade-off between public protection and individual redress to a consumer.”</p>

<p>Embedding the 'better regulation' principles and the 'consumer principles'</p>	<p><b>MICHELLE</b></p>	<p>"There is no good reason why legal services regulation in Scotland wouldn't benefit from best practice elsewhere. Drawing on the 'better regulation' work and the 'consumer principles' would be a great way to do this."</p>
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<p>Setting out clear high-level outcomes for market, entity, and individual regulation</p>	<p><b>KAY</b></p>	<p>"At the moment, the focus in regulation is on firms for service complaints and on individual lawyers for conduct complaints. This can have impacts on consumers more generally - for example, conduct complaints can't be considered at a firm level. It also leads to a focus on the outcomes of individual complaints, rather than how well the system is working overall."</p>
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<p>Moving the focus of regulation to ongoing assurance, and quality improvement</p>	<p><b>DENISE</b></p>	<p>"We have a system that works reactively to tackle issues when they're reported. We need to move to one that does better at stopping the issues arising in the first place."</p>
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The board has a wide range of experience and throughout this annual report you will see comments from our board members.



## Our Year

**1,227** new complaints received\*

6.2% annual increase

22% 3-year increase

**1,268** complaints dealt with\*

18% annual increase

**£293,143**

redress agreed or awarded by  
investigators or determination  
committees

**12** process improvement  
trials 'Sprints' started  
by year end

**411** complaints resolved  
or upheld (261 in previous year  
57% annual increase)

**5** guides for consumers  
and profession  
published

**64%** mediation  
success rate

**97%** staff reported the  
SLCC as a fair place to work

\* In addition to new complaints, we already had 807 complaints in progress at the start of the year and 89 complaints were re-opened in the year. (See Statistics for more information).

## Some highlights of the year in support of our 2016–20 strategic priorities:

**BUILD TRUST** so consumers and lawyers know we are here and have confidence in our service:

- › Produced videos, plain English and Easy Read information.
- › Produced posters and leaflets to share with Citizens Advice Bureaus and other advice centres.
- › Tendered for a new, more accessible website.

**PROMOTE STRONG RELATIONSHIPS** between consumers and their lawyers, helping fix issues quickly and reducing the causes of complaints:

- › Produced a guide for consumers on wills and executries.
- › Produced a companion guide for solicitors on wills and executries.
- › Produced guidance for solicitors on preventing complaints.

**DELIVER EARLY RESOLUTION & REDRESS** through an independent, impartial, fair, and accessible service which is efficient and effective:

- › Piloted changes to improve the efficiency and capacity of our complaint handling process.
- › Publicly raised the issues we are finding in ensuring redress is awarded.
- › Produced new materials to encourage mediation, helping maintain relationships between parties.

**DRIVE IMPROVEMENT** through a culture of learning from complaints, quality improvement, and our influence in the sector:

- › Submitted evidence to the independent review of legal services regulation.
- › Produced updated guidance for solicitors on dealing with complaints.
- › Increased our profile with the legal profession through events and articles.

**DEVELOP HIGH PERFORMANCE** as a complaints organisation and employer:

- › Upgraded our case management system.
- › Negotiated significant savings on our lease.
- › Surveyed our staff on job satisfaction and diversity.

# Feedback

In every complaint made to us, there is a human element. While it's hard to convey the difference our service can make to people, a selection of the compliments received gives a flavour of the service our staff provide.

I am simply grateful for the professional manner in which you managed to resolve a matter without the need for any further complaint – the more that can happen the better, for all concerned. I am very aware of just how busy the SLCC is and I am continually struck by the high quality of service it delivers notwithstanding those pressures. In short, the SLCC is doing as it states – increasing confidence in the legal profession.

Thank you for your thorough investigative work carried out.

Thank you so much for sorting this out... you have no idea the relief I feel.

This is a brilliant summary! It really condenses and strengthens the basis of my complaint.

I feel your involvement was instrumental in bringing this to a satisfactory conclusion.

I would like to thank you for the patience which you have shown throughout this process and for the professional manner in which you dealt with it.

I must say that I would highly recommend the mediation process. I found it really helpful and gave me great insight into the client's experience which we have taken on board and are using in training to improve our client service.

Not all the feedback we receive is positive. We also received 27 complaints about our service in our 2017-18 year. You can read more about these in our **statistics** section.

# Chair of the Consumer Panel's report



The Consumer Panel's role is to assist the SLCC in understanding and taking account of the interests of consumers of legal services. We do this by giving feedback, from a consumer viewpoint, on the effectiveness of SLCC policies and procedures. This is a wide-ranging role involving specific areas including scrutiny of the consumer journey through the complaint system to the broader areas of access to justice and the regulatory environment and how they should be improved for consumers. We were delighted to welcome two new members to the Panel: Louise Johnson representing Scottish Women's Aid and Paul Bradley from the Scottish Council of Voluntary Organisations. The Panel meets quarterly and members participate in other relevant events where they can represent the consumer interest in this field.

During the last year, the Panel published 'Consumer principles – applying the consumer principles to legal services: a tool for legal professionals and regulators'. This publication is designed to help legal professionals think about the consumer interest in a more structured way. It is based on internationally recognised principles of access, information, choice, safety, fairness, redress, representation and quality. This tool proposes a series of

questions designed to prompt consideration of whether there is a consumer-focused culture in legal services and at the heart of regulation. We were delighted to see that the consumer interest featured strongly in Esther Robertson's Report of the Independent Review of Legal Services Regulation in Scotland, and we look forward to a new system based on faster complaints handling which is simpler for consumers to access.

Building on our work on consumer principles, the Panel hosted a roundtable event on consumers at risk of vulnerability. This event brought together a wide range of stakeholders who shared a rich range of examples to inform our thinking on this complex area of policy and practice. In addition to individual characteristics such as age, low income, loss of employment and low literacy for example, market features such as cost, access and choice barriers can all result in a negative experience for consumers and result in vulnerability. We will continue to work with the profession to co-design a further publication to help stakeholders meet the wide-ranging needs of their consumers. We recently contributed to the development of a new plain English guide to making a complaint to strengthen access to the services of the SLCC.

## Companies who meet the needs and wants of their consumers will attract repeat business, positive comments from those who have had their complaints resolved effectively, and more consumer loyalty, contributing to future success.

The Panel would like to have more research conducted on consumer experiences of legal services in Scotland and on the consumer journey through the complaints system and would like to see funding made available for this activity.

We responded to the following consultations this year:

- The SLCC's 2018–19 budget and operating plan consultation
- The Law Society of Scotland's consultation on price transparency
- The Scottish Government's consultation to establish a consumer body for Scotland

We also responded to the call for evidence by the independent review of legal services regulation and provided our comments on draft regulations relating to new complaint types under the Legal Services (Scotland) Act 2010.

In all of these consultations, it was good to be able to bring a view focussed on consumers of legal services.

It has been a great pleasure to work with the Panel again this year to contribute to a more consumer-focussed culture both at the SLCC and more generally in the legal services profession. There is a very strong business case for such a culture as companies who meet the needs and wants of their consumers will attract repeat business, positive comments from those who have had their complaints resolved effectively, and more consumer loyalty, contributing to future success.

**Carole Brennan**  
**Chair of the SLCC Consumer Panel**





# Our process: key statistics and trends

The process we follow in handling legal complaints has two main phases.

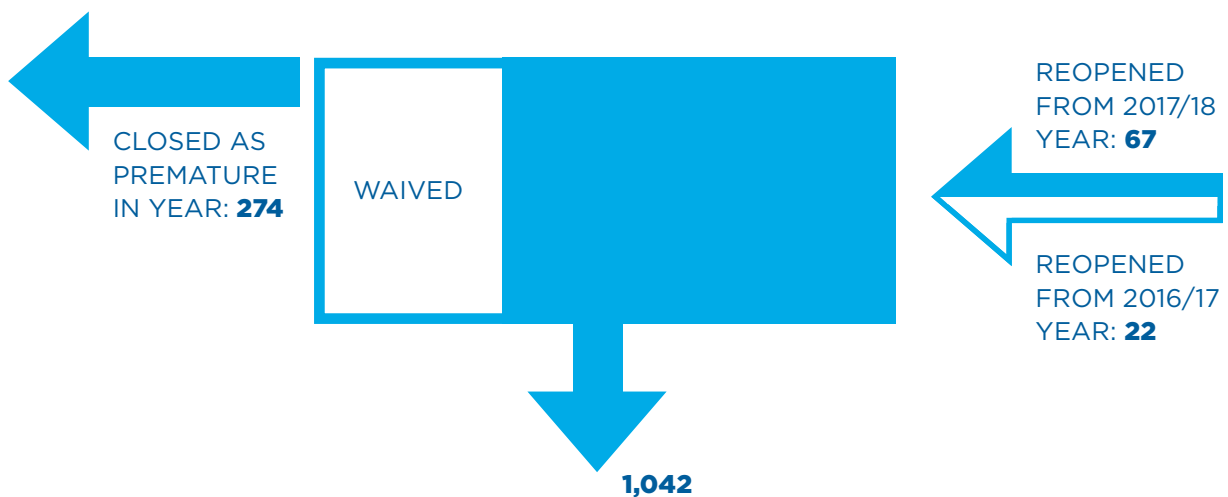
Firstly, the checks we must carry out on all complaints. This usually includes a decision on whether to accept or reject a complaint and then the categorisation of a complaint as conduct or service.

Secondly, for service complaints only, where we mediate, investigate or formally decide (determine) complaints.



## Initial checks

Complaints received: 1,227. Before we make a decision on accepting or rejecting a complaint, we check if the complaint has been made to the lawyer or firm first. Sometimes, we can waive this requirement if there are exceptional circumstances. If the complaint has not been resolved satisfactorily, the complainer can reopen it.



## Eligibility

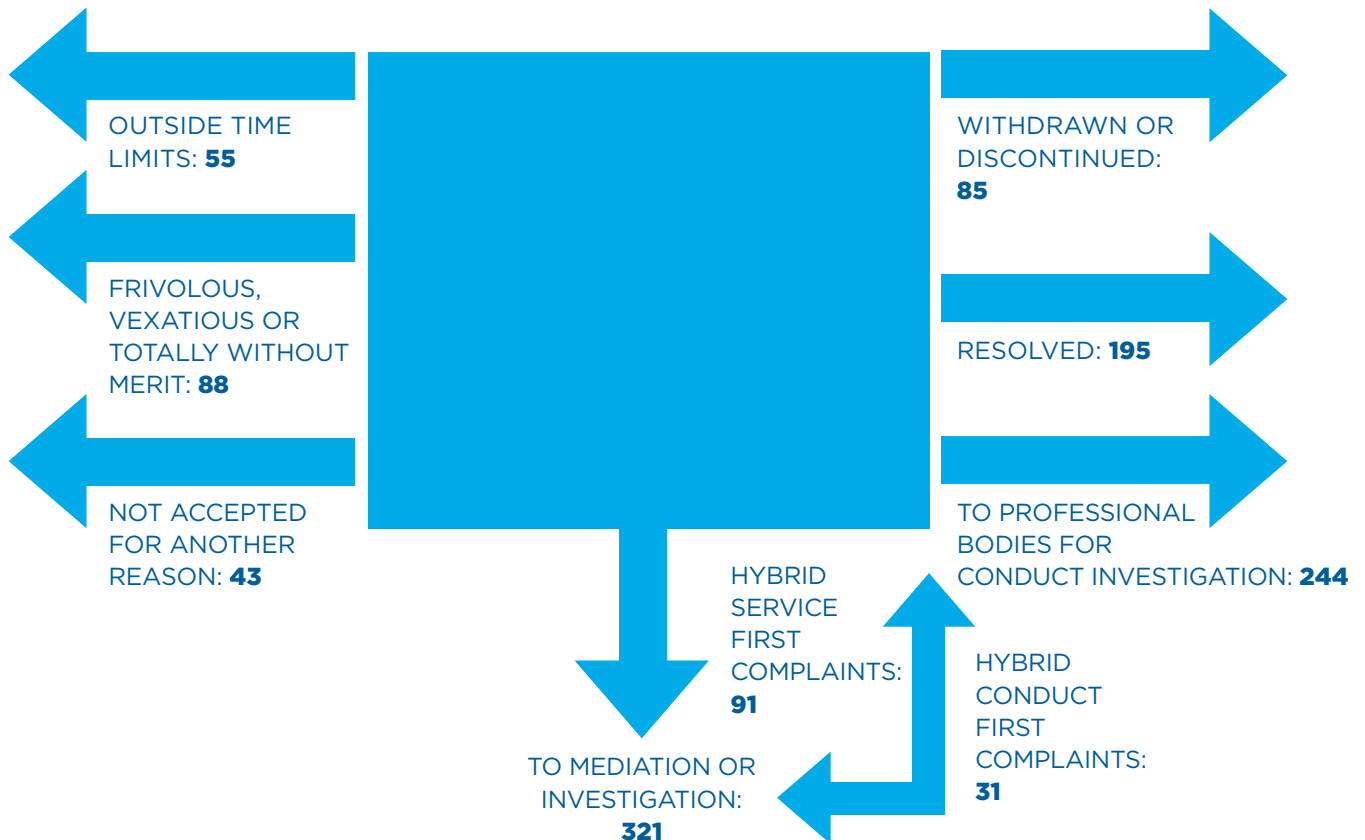
Not all complaints reach the investigation stage of our process. We first must carry out two important checks. While a simple step in itself, we've had to make the initial assessment more complicated in response to court decisions on appeals. This means that we now have to spend more resources on this stage of our process than the later stages (investigation and determination) combined.

- > **Has the complaint been made within our time limits?**
- > **Is the complaint "frivolous, vexatious or totally without merit"?**



“Our process is unusual because the initial decision to accept or reject a complaint can be appealed to the Court of Session. As a result of this, we often receive guidance from the Court on our process. Over time, this has led to our eligibility stage becoming more complex, taking more time and using more staff.”

Sara Hesp, Board Member



## Mediation

We offer mediation if it's appropriate. See <https://vimeo.com/252869591> for video.

**40% take up rate; 64% success rate**

“With the number of mediations increasing by 83% on the previous year, 2017–18 was a busy year for mediations at the SLCC. Our new and up-to-date brochure and video which were published on the SLCC website in January helped highlight the benefits of mediation, resulting in an increase in our take-up rate of 13% on the previous year, and a 6% increase on our success rate.”

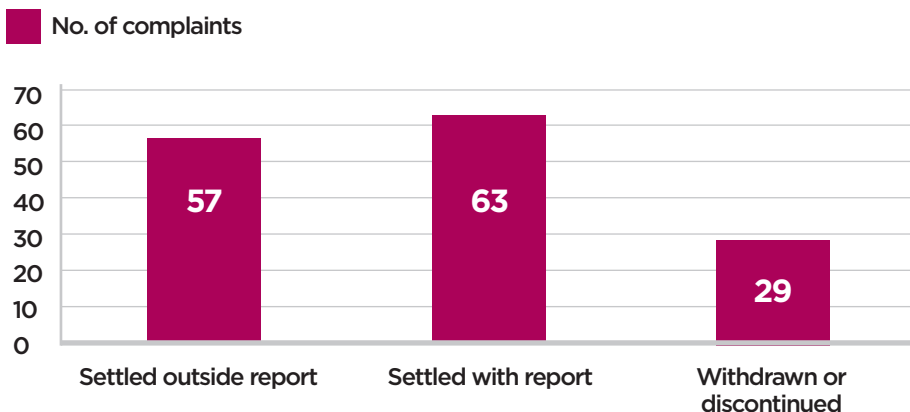
SLCC Mediation Co-ordinator

## Investigation

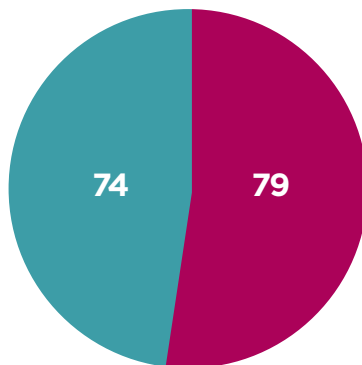
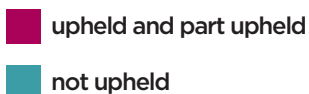
At our investigation stage, we give both parties an opportunity to come to a settlement on the complaint. Sometimes this is after a formal investigation report has been prepared. At other times, the settlement will be before the report or on different terms to those recommended.

Helping the two parties come to a settlement keeps control in their hands.

### INVESTIGATION SETTLEMENTS

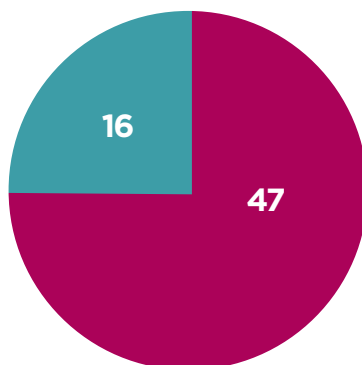
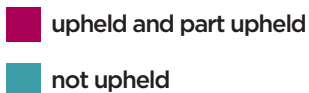


### NOT SETTLED



“When a case is going to be investigated we ask the firm to provide their files and responses within 14 days. In 2017/18, 42% did not do so. We then send a 7 day reminder. 12% still did not provide this information. The cumulative effect of this is a delay in investigating the complaint and cost in sending reminders. All this impacts on how quickly our process operates and the levy charged to the profession.

### SETTLED



In almost all complaints, we will issue parties with our initial view of the complaint, thus trying to allow parties to reach an agreement in terms which they mutually agree, without the complaint requiring more formal recommendations or having to progress to our Determination Committee. This can greatly speed up the process for the parties and also makes our system more cost effective. Approximately 50% of cases resolve at the investigation stage. Of the cases that progress to Determination, only 10% receive a different outcome.”

SLCC Case Investigations Manager

## Determination

If the complaint is not settled at investigation, it will be considered by a 'determination committee' of three board members. The chair of the committee is a lawyer member, the other two will be non-lawyers.

They will consider the investigation and any other information they think appropriate. They will then make a binding decision on the complaint.

50% of complaints were upheld or part upheld.

Not upheld	68
Part upheld	57
Upheld	11
<b>Total</b>	<b>136</b>

**“It’s interesting to note that the overall trend we have seen in recent years is being maintained; the vast majority of complaints which come to the Commission are being resolved long before the final Determination stage. In the current year, a total of 1,227 complaints were received, and only 136 proceeded to a Determination Committee. I think this is testament to a robust focus on early resolution and mediation by our staff.**

**For the cases which do proceed to Determination, some of these are among the most complex and therefore arguably less capable of early resolution. Others are those where either or both of the parties have become entrenched in their view of the merits of their position and therefore less amenable to resolution. Efforts continue to be made to work with the parties to try and achieve agreement at an earlier stage.”**

Denise Loney, Board Member

## Process improvement

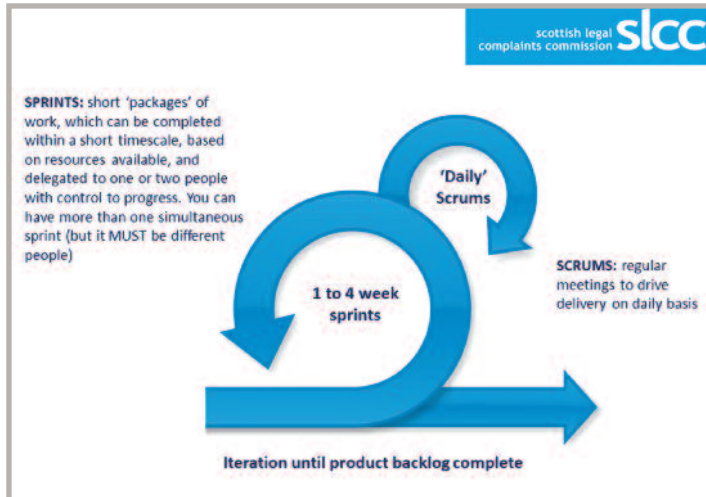
At the close of last year’s annual report, our Chief Executive signalled that we would be piloting changes to our process. This year, we started 12 of these pilots.

Our aims were ambitious and aimed at some of the challenges posed by the increasing number and complexity of complaints:

- **Reduce the time complaints take to go through our process.**
- **Reduce the number of ‘in progress complaints’ in the whole process, removing delays.**
- **Find ways to re-engineer the whole SLCC complaints system.**
- **Empower our staff with a toolkit of proportionate approaches to handle complaints.**
- **Step back from issues raised in previous judicial and legalistic analysis of the process, to focus on what is important to complainers and lawyers in terms of processes and outcomes.**

We also wanted to find a way of reviewing the pilots without significant time or cost.

We developed a system of ‘sprints’, short packages of work which could be completed within a short timescale, based on staff resources available.



We also embodied core values in the sprints to make sure the changes delivered a complaints process which was:

- Independent and fair
- Clear and comprehensible
- Accessible
- ‘Customer’ focussed

And one which fully utilised:

- Early resolution
- Digital opportunities

The project teams fed back on their work to colleagues and the SLCC Board, and we have invited in key stakeholders for briefings on the work.

Initial results have suggested that some of the sprints could have significant impacts on our process. Several sprints are ongoing, or still to start. We will now start to consider if we could incorporate some of these innovations into our process.

MANAGEMENT OF SPRINT	
SPRINT NUMBER	1
SPRINT NAME	Using plain English at eligibility
SPRINT LEADER	K
SPRINT MEMBERS	V, J
TIMESCALE	2 weeks
SPRINT PLANNING MEETING	08 April 2018
SPRINT MEETINGS	Twice weekly - Tuesday / Thursday at 09:00 / 10:00
DEADLINE / RETROSPECTIVE	08 April 2018
REPORTING TO	Caroline / Mark / Neil
DETAILS OF SPRINT	
Objectives:	<ul style="list-style-type: none"> <li>•</li> <li>•</li> <li>•</li> <li>•</li> <li>•</li> </ul>
Expected output/outcome:	<ul style="list-style-type: none"> <li>•</li> <li>•</li> <li>•</li> <li>•</li> </ul>
STATUS	Results
READY TO GO	Further work / roll-out
NOTABLE LEARNINGS	

**Example project 1:**

Using a standardised checklist at eligibility. This would allow us to develop standardised reasoning without a substantial eligibility report being drafted.

This could also give an opportunity to move to using plain English for these decisions.

**Example project 2:**

Moving away from a ‘one size fits all’ approach at investigation. Developing a ‘three tier’ approach to complaints, so the simpler complaints are dealt with swiftly and more complex complaints get the resource they need.

This work will continue throughout the 2018/19 business year.

**“We’ve been gratified by the enthusiasm of SLCC staff for this work, and the ideas they’ve put forward. We chose a ‘sprint’ approach which combines being responsive with being controlled. There are several advantages to piloting new ideas in this way: we can get results within 4–6 weeks; changes must be simple without extra IT costs and we can test many more ideas than traditional process reengineering methods. What’s more, the management team can balance the effort involved with carrying out core complaints work.”**

Morag Sheppard, Board Member

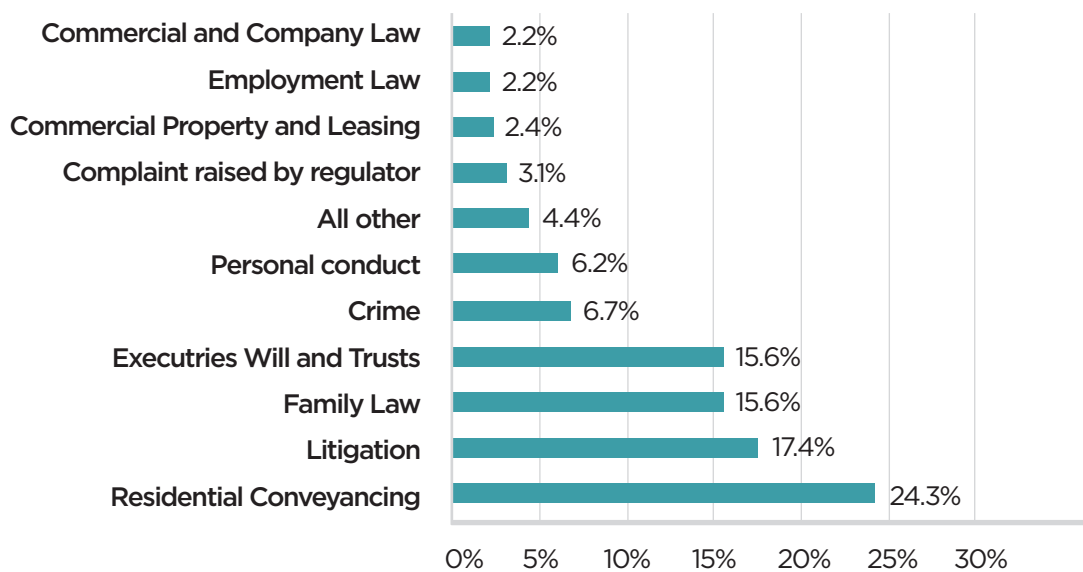
# Outreach to the profession

We know that putting things right when they've gone wrong is only part of the picture.

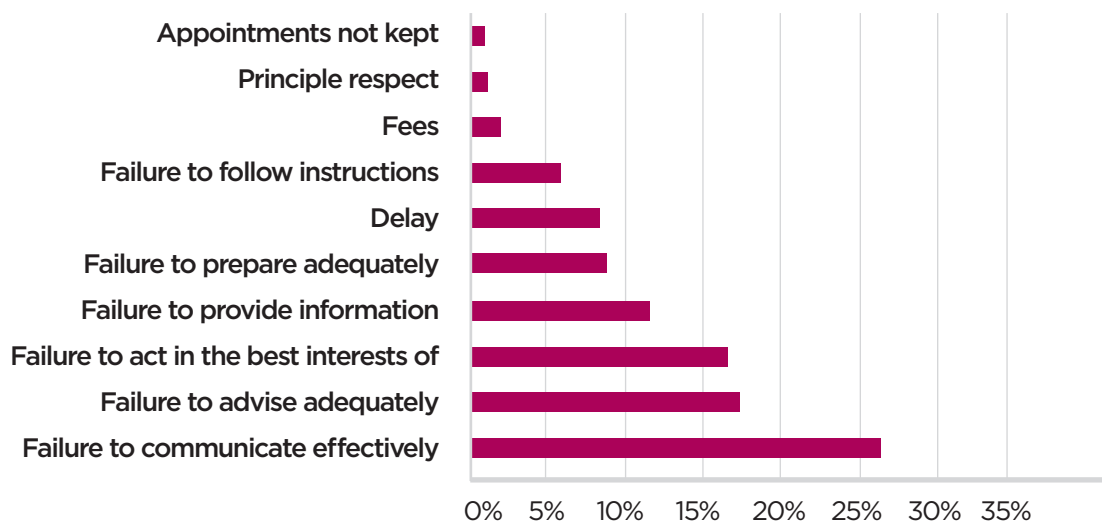
We also work with the profession and consumers so that things can go right first time.

We know that with over a thousand complaints made to us every year, there are lessons that can be learned. In particular we look at the key trends from our complaints statistics.

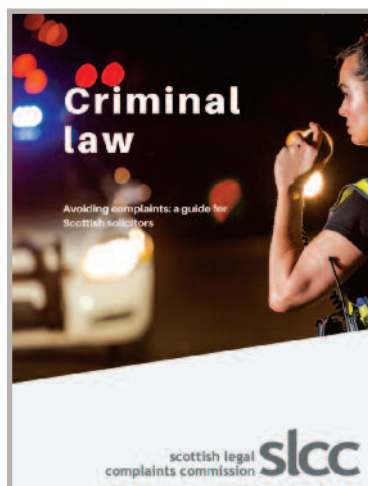
## TOP TEN BUSINESS AREAS IN COMPLAINTS



## TOP TEN SERVICE ISSUE COMPLAINT TYPES BY SUBJECT



This includes publishing guides and providing training, either at conferences and events or on request at individual firms. We also send a quarterly email newsletter with best practice tips and case studies:



**“Complaint-handling is not just about dealing with things that go wrong but ensuring that things go right. That’s where my role as Best Practice Advisor fits in – building a culture of learning from complaints. Reflecting on what you have learned and using that knowledge to make changes to address the root causes of complaints and to help handle similar situations should they arise in the future.”**

Jennifer Sinclair, Best Practice Advisor

**“We are very appreciative of (you) agreeing to come to us and fee earners and support staff have commented to me on how useful they found the session to be; thank you for your excellent presentation and for sparing the time to come here.”** Client Relations Manager at a firm following a complaints workshop

**“Good complaint handling at the first tier is an opportunity to sort matters out on the ground before matters deteriorate and, hopefully, before the client-lawyer relationship breaks down. It should be seen as a chance to avoid a potentially poor outcome for both client and lawyer. A first tier resolution also affords the individual lawyer and firm an opportunity to re-examine practices and processes, make improvements and widen to a learning tool ensuring reflective practice.”**

Amanda Pringle, Board Member

# Data protection and records management

In last year's annual report, we signalled that we'd started our planning for the implementation of the General Data Protection Regulation (GDPR). There was significant work on this in our 2017-18 year, both before and after the May commencement date.

This work was led by our newly appointed Data Protection Officer, Alison Marron, who took on the role in addition to her current role as Oversight Manager. It included extensive reviews of information held followed by changes to internal policies. Four separate privacy notices were drafted and published on our website to cover different audiences.

There were several staff and board training sessions in the run up to the launch of the regulation.

We also produced a video for our website to help explain how we handle the data of our service users.

We are now starting a further programme of work, to ensure our ongoing compliance with the GDPR. In addition to meeting our legal duties under the Data Protection Act, we want complainers and lawyers to know that their personal information is safe with us.

We also dealt with a number of subject access requests, before and after the GDPR commencement date.



## Subject Access Requests 17

**“We worked extremely hard to ensure that we were GDPR compliant on 25.05.18. The main challenge for us now is to remain compliant and to ensure that everyone keeps up the data protection momentum. There are valuable lessons to learn from how we deal with personal data. Regular training and audit of data security arrangements will be a high priority for us in the next operating year.”**

Alison Marron, Data Protection Officer

### Records Management

While it is closely related to our work in data protection, our records management forms a separate strand of work. It has been ongoing since 2015.

In October 2017, we submitted the final version of our Records Management Plan to National Records of Scotland. We will now continue to archive and in some cases destroy records in line with this plan. We also agreed to explore digital archiving of our website and other online resources.



# Our other statutory duties

The SLCC has other duties in addition to being the starting point for all legal complaints and investigating services complaints.

## Handling complaints

We also receive complaints about the way the professional bodies carry out conduct investigations (see *statistics*).

It is worth noting that two thirds of the handling complaints resulted in satisfactory or generally satisfactory outcomes. We did identify the need for the Law Society of Scotland's training manual to be updated, and for guidance and training to be provided to staff and Committee Members in respect of the application of sanctions for Unsatisfactory Professional Conduct. We note that the Society has since published sanctions guidance on its website.

Compensation totalling £1,150 and costs of £60 have been paid to 5 complainers.

In addition to the 13 new handling complaints, we started to review our process for dealing with these complaints. There are two aspects to our current approach; (1) to ensure that the handling complaint itself is adequately managed, and (2) to monitor the systems and methods operated by the professional bodies, to provide recommendations and give guidance where appropriate. We want to make sure that our process continues to be as efficient and effective as possible.

The review will continue in the 2018-19 operating year, in tandem with our work for dealing with the new types of complaints under the *Legal Services (Scotland) Act 2010*.

## Trends analysis

We continued to monitor trends in complaints made to us and we have identified particular issues. Some of these were fed back to the profession through our outreach work. Others were raised with individual firms.

## Client protection fund and Master Policy insurance

We made arrangements with the Law Society of Scotland to improve our oversight of the Client Protection Fund (formerly known as the guarantee fund) and the Master Policy Insurance. The Client Protection Fund is the 'fund of last resort' for those who have lost money as a result of the dishonesty of a solicitor or their staff. The Master Policy is the compulsory professional indemnity insurance arrangement which covers all Scottish solicitors working in private practice.

We started to receive information towards the end of the operating year and will analyse this in the 2018-19 year.



# Our staff and industrial relations

Median remuneration	<b>£30,851</b>
Full time staff over year (average)	<b>55</b>
Reduction in staff turnover	<b>19.6% to 7.15%</b>
Ratio of female to male staff	<b>64%/36%</b>
Staff reporting SLCC as a fair place to work	<b>97%</b>

“The wellbeing of our staff is something that we recognise should never be taken for granted; it has been good to see initiatives such as the mental health awareness week and the diversity monitoring survey being undertaken this year as these can create opportunities for staff to support each other within the organisation. The findings from these initiatives have shown that some real positive impacts are being made.”

Michelle Hynd, Board Member

Staff numbers were slightly higher than last year, as we focussed on dealing with rising complaints and the impact it has had on our work. Eleven new Case Investigators were appointed in the 2017–18 year.

We also started a recruitment exercise for two senior management roles in the annual report year. The successful applicants will be in post in the 2018–19 year. These roles have been introduced to improve core performance.

As far as industrial relations are concerned, currently there is no union recognition by the SLCC. However, representatives from the PCS union attended the office to speak with staff during the year.

There is a system of staff representatives. Staff elected two new representatives this year and two scheduled formal meetings took place. There was also activity focussing on specific issues such as our response to snowy weather early in 2018 and follow-up work from the staff survey and other feedback. This included workshops on issues of interest to staff (such as around the planned management changes).

Our next staff survey is currently underway, with interim results showing equally positive staff satisfaction as in previous years.

We carried out an equal pay evaluation in August 2018. It found that we pay all staff according to our current pay and grading

structure, irrespective of gender. It also found that we treat all staff equally, and they are progressing through our current pay and grading structure based on performance and length of service. We will report further on this in next year’s annual report.

We also carried out a wider diversity monitoring exercise this year and published the results to staff. The findings highlighted that 97% of our staff reported the SLCC was a fair place to work.

The SLCC currently holds the Living Wage accreditation.

## Butterfly Trust fundraising

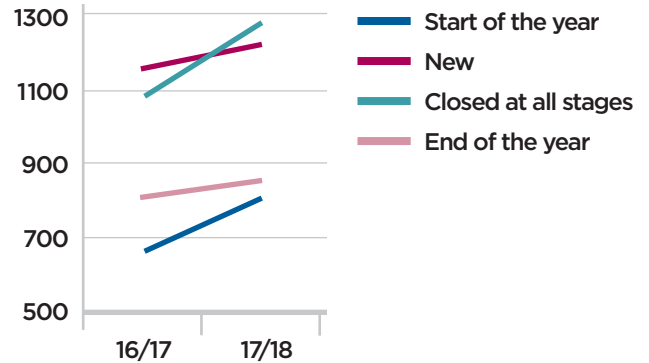
Our staff charity for the 2017–18 year was the Butterfly Trust – cystic fibrosis support for Scotland. Our staff’s fundraising activities included the “Rough Runners” event in Edinburgh, a charity bake sale and a Christmas craft fair. Over the year staff raised £3,401.17.

Our 2018–19 staff charity is Canine Partners – transforming lives by training assistance dogs.



# Annual statistics

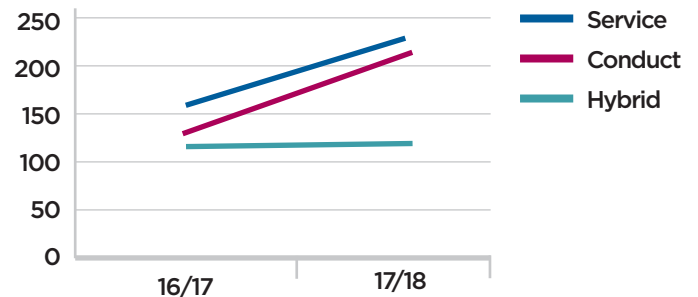
	17/18	16/17
Complaints in progress at the start of the year	807	664
New complaints	1227	1155
Reopened complaints	89	92
Complaints closed at all stages	1268	1074
Complaints in progress at the end of year	849*	807



\*This number is not precisely 855, due to a very small number of complaints being closed for IT or administrative reasons (i.e. not related to decisions on complaints).

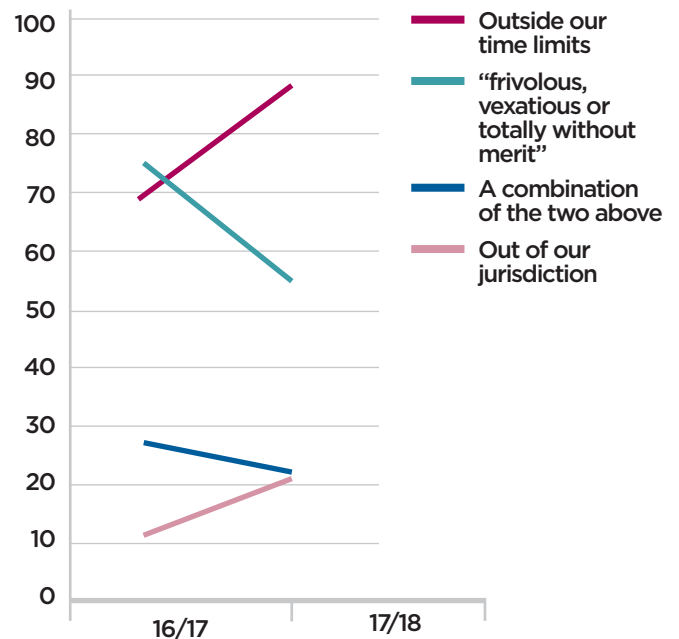
## Accepted for investigation

	17/18	16/17
Service	230	159
Conduct	213	131
Hybrid	122	117



## Not accepted for investigation

	17/18	16/17
Outside our time limits	55	75
'frivolous, vexatious or totally without merit'	88	69
A combination of the two above	22	27
Out of our jurisdiction	21	11
'No interest to make a complaint'	0	1



Complaints closed at eligibility stage without a formal decision to accept/reject.

	<b>17/18</b>	16/17
Resolved	<b>195</b>	123
Withdrawn	<b>48</b>	83
Discontinued	<b>37</b>	45

While these three terms might seem similar, they have a specific meaning at the eligibility stage of our process:

<b>Closure reason</b>	<b>Definition</b>
Resolved	Complainer requests, or agrees to, closure of complaint as a result of action taken by lawyer/firm. <b>OR</b> Complainer has not responded to SLCC letter, in which it was indicated the SLCC's initial view is that complaint is time-barred or incapable of being upheld (based on merits), or has responded indicating acceptance of initial view.
Withdrawn	Complainer requests closure of complaint for unknown reasons, or reasons other than action taken by lawyer/firm.
Discontinued	Complainer has not responded to request for information in support of complaint, despite reminder letter having been sent and closure warning given.

Complaints resolved at mediation stage

	<b>17/18</b>	16/17
Resolved by mediation	<b>35</b>	16
Resolved without a formal mediation	<b>17</b>	11



Complaints settled by our investigators. For more information on this, see the *complaint process* and *key stats* page.

	<b>17/18</b>	16/17
Settled by report - upheld/part-upheld	<b>47</b>	32
Settled by report - not upheld	<b>16</b>	12
Settled outside of report	<b>57</b>	19
Withdrawn or discontinued	<b>29</b>	68

Complaints decided by a determination committee of three board members.

	<b>17/18</b>	16/17
Upheld	<b>11</b>	12
Part upheld	<b>57</b>	32
Not upheld	<b>68</b>	51

Complaints by type of lawyer

	<b>17/18</b>	16/17
<b>Received</b>		
Solicitors	<b>1,213</b>	1,145
Advocates	<b>14</b>	10
<b>Accepted for investigation</b>		
Solicitors	<b>579</b>	410
Advocates	<b>7</b>	4
<b>Not accepted for investigation</b>		
Solicitors	<b>734</b>	677
Advocates	<b>6</b>	13

## Appeals

	Eligibility	Determination	Total
Year start	19*	4	23
Received	9	2	11
Won	11	1	12
Lost	0	0	0
Conceded	13	4	17
Withdrawn	1	0	1
Year end	3	1	4

\*This includes the 17 appeals from the Law Society of Scotland on our categorisation of formerly 'hybrid' complaint issues.

**“Appeals continue to be a significant area of cost – even appeals when the amount of money concerned is very low.”** SLCC Clerking Manager

We also receive complaints about the way the professional bodies carry out conduct investigations see our *other statutory duties* for more information.

## Handling complaints

	Law Society of Scotland	Faculty of Advocates
Year start	1 (suspended due to ongoing – Crown Office enquiries)	0
New	12	1
Rejected – not justified to intervene	3	0
Accepted for investigation	9	0
Discontinued	0	1
Closed on report	9	0
Year end	1	0

Outcomes:

	Law Society of Scotland	Faculty of Advocates
Satisfactory/generally satisfactory	6	0
Critical	3	0

## SLSO complaints

10 years after the Scottish Legal Services Ombudsman was disbanded and its powers were transferred to us, we still receive complaints that are under its powers.

Start of year	0
New	1
Closed	1
End of year	0

## Freedom of Information

We are a public authority under the *Freedom of Information (Scotland) Act*. We received 50 requests for information during our year.

Requests received in year	50
Requests responded to on time in year	47
<b>Requests dealt with:</b>	
Withdrawn by requester	3
Repeat of a previous request	1
Disclosed all information	19
No information disclosed	11
Disclosed some information	9
We didn't hold the information	7
Refused to confirm or deny whether the information was held	1
<b>Exemptions used:</b>	
The information was otherwise accessible	4
Disclosure prohibited under another enactment (e.g. section 43 of our legislation)	11
Substantial prejudice to effective conduct of public affairs	6
Personal data of the applicant	1
Third party personal data	3
Subject Access Requests	17

## Service delivery complaints

We received 27 complaints about the way we'd handled a complaint made to us. If these aren't resolved at 'stage 1', they are escalated to 'stage 2'.

Stage 1 outcomes

Outcome	Number
Upheld	2
Part upheld	10
Not upheld	15

Stage 2 outcomes – 12 complaints were escalated to this stage.

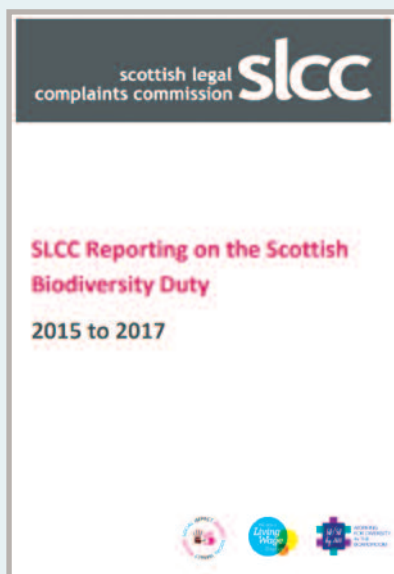
Outcome	Number
Upheld	1
Part upheld	5
Not upheld	6

Even where complaints are not upheld, there can be learnings that can usefully be fed back to the staff concerned. In 9 complaints, specific actions were recommended or agreed.



# Biodiversity and Climate Change

We reported on what we've been doing to meet the Scottish Biodiversity Duty in the period from 2015 to 2017, setting out our primary biodiversity aim as continuing to think about the way we work so that we can reduce our environmental impact. This report followed on from 2015, when our board and senior management team committed to improving resource efficiency within the SLCC, and 2016 when we approved our sustainability policy.



Building on actions taken in previous years, we have focused on reducing waste, re-using items wherever possible and staff engagement with green issues. We've continued to promote active travel and public transport, by supporting the Cycle to Work scheme and offering staff travel loans. Where possible we've taken a more 'paper lite' approach and some teams have moved away from printing paper. The scheduled destruction of older paper records also allowed us to re-use stationery such as folders and wallets.

We took part in national campaigns such as Pass it on Week and Climate Week and welcomed speakers from Home Energy Scotland and Love Food Hate Waste who gave interesting presentations at staff information sessions.

In March 2018 we qualified as a 'Super Public Body' for our support of Earth Hour and our promotion of it to staff, suppliers and stakeholders.





# National Performance Framework

The SLCC was delighted to be represented at the launch of the Scottish Government's updated National Performance Framework (NPF) on 11 June 2018 and strongly support an outcomes based approach to government, the core purpose and values within the framework, and focus on well-being indicators.


The SLCC is independent of government and of the legal sector. As an independent public body, we receive no public funding for our core statutory functions. Based on our governing statute we set our own priorities and budgets, something that is key to ensuring the mutual confidence of the profession and the public in how we impartially resolve disputes. However, the NPF does influence our work and aspiration, and provides a useful tool in our strategy and legislative change work as we step back from some of the current detail and think about what high level outcomes we are trying to achieve overall for consumers of legal services, lawyers, and for the wider public.

Following the launch of the new framework we reviewed both current and planned work to ensure alignment with the NPF where appropriate, as well as the Scottish Government's 'Vision and Priorities for Justice in Scotland' (which was launched as a refreshed strategy for Justice 2017).

We have worked to ensure we **respect, protect and fulfil human rights and live free from discrimination** and support **vibrant and diverse cultures which are expressed and enjoyed widely**. We have trained our staff in 'reasonable adjustments', and our decision makers around 'unconscious bias'. Our staff equality survey this year indicated that 97% of our staff thought the SLCC was a fair place to work, while our work on International Women's Day helped promote our services to women, following a demographic assessment of those who access our service less.

We have undertaken significant work this year alongside our independent Consumer Panel to examine and promote the role of the internationally recognised 'Consumer Principles' and their relevance to our work and the legal sector. These principles, of which effective redress, such as the redress offered by the SLCC is one, are aimed at ensuring **globally, competitive, entrepreneurial, inclusive and sustainable economy**. Our proposals for reform in regulation emphasise the economic importance of the legal sector and draw on the Scottish Government principles of better regulation to ensure the regulatory and complaints model supports, rather than risks being a barrier to, **thriving and innovative businesses, with quality jobs and fair work for everyone**.





Some outcomes do not relate to our delivery of statutory functions at all; however, as an employer we can still contribute. Often this may be in a small way, but we believe one of the values of the framework is to encourage departments and organisations to realise they may have a part to play in every single outcome, and that the aggregation of small contributions, across many organisations, can be significant. On this front we delivered work to support staff to be **healthy and active** through initiatives like our well-being week, mental health awareness week and talks and health check by Edinburgh Leisure. As part of our contribution this year to support people to **realise our full potential** and to be **well educated and, skilled and able to contribute to society** we offered our first ever modern apprenticeship.

In terms of **protecting and enhancing our environment** we have published a sustainability report showing how, even as a small office-based organisation, we can contribute to lowering carbon emissions and waste. This year we signed the 'Social Impact Pledge', allowing certain not for profit organisations to access our facilities as part of contributing to **communities that are inclusive**.

In terms of the justice priorities we **assist individuals to exercise their rights** when something has gone wrong with a legal service. We have increased our use of video, online complaints forms, and video conference mediation as we work to ensure our part of the justice system **meets the needs of people in Scotland in 21st century**.

## Closing comments



There is no doubt that the year ahead will be one with some uncertainty but with huge opportunity to improve the overall system of regulation and complaints.

We have publicly welcomed the 'Fit for the Future' report published following an independent review of regulation and complaints handling in the sector. We believe the efficiency and effectiveness of legal regulation and complaints for the public and the sector could be improved by dismantling an overly complex system which duplicates effort. We are still to form our detailed response to the report, but the most heartening element for us was that it was willing to question every element of the current system. This gives us the best possible chance of an ultimate solution which is more streamlined and proportionate.

The SLCC was a leader in calling for change, and we were delighted that 30 of our 35 recommendations to the review were adopted. The Law Society of Scotland had also called for changes to the complaints process, and we were surprised that they have now switched from supporting reform to strongly opposing. Particularly those very recommendations most likely to lead to efficiency and improvement in complaints. We will continue to campaign, but we are concerned that if the professional organisations seek to block reform then the profession and public will lose out, and the costs of complaints and regulation will continue to rise.

**A positive  
workplace culture  
has tangible  
business benefits.**

The possibility of big change brings opportunities, but it also brings some uncertainty for both our board and our staff team. Their commitment to improvement has driven this work, and their expertise will be vital in its delivery, but for me as Chief Executive, a significant priority will be ensuring we continue to engage with our teams during the period when these potential reforms are discussed, and specific plans are developed. I'd wish to use this opportunity to thank colleagues for their work, commitment, ideas and enthusiasm. A positive workplace culture has tangible business benefits. In a recruitment exercise started within this business year, for new senior management team colleagues, the published results of our staff engagement and staff diversity surveys were noted by almost all of the incredibly talented pool of applicants who applied as a key draw in wishing to come to work for the organisation.

Although we are excited about the possible wider legislative change of the system, this will take time. We must also continue to work on internal process improvements. This change programme has seen some significantly different approaches to resolution, investigation and decision making being tested in the last year - many ideas were generated by our own frontline teams, but we also drew on best practice in other complaints organisations. We hope that in the coming year these will start to have a demonstrable impact on overall performance, despite our prediction that complaints are likely to continue to rise.

With our new lease signed, giving us certainty for the next five years, we will also be investing in digital and IT systems, to increase our accessibility as well as our performance. In 2019 we expect the first non-lawyer owned legal businesses to enter the market under legislation originally passed in 2010, extending the SLCC's remit in terms of both the businesses we provide a complaints service for, but also in terms of an oversight complaints role in relation to the 'Approved Regulators' of these new businesses.

There is a busy year ahead to deliver both our ongoing work and this ambitious programme of reform.

**Neil Stevenson**  
**Chief Executive**









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