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SG/2017/225 - Scottish Legal Complaints Commission Annual Report 1 July 2016 - 30 June 2017.

Laid before the Scottish Parliament by the Scottish Ministers under section 16(4) of Schedule 1 to the Legal Profession and Legal Aid (Scotland) Act 2007, November 2017.

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Chairman's Foreword

As my five year term as Chair draws to an end, it is right to reflect on the journey we have made in that time, and not just the uniquely challenging year past.

In considering our record over the past half-decade, it is worthwhile to look back further still, to our creation and launch almost ten years ago. Throughout the parliamentary debates, one prevailing theme carried through – the need for an independent, impartial and accessible legal complaints body. In 2008 this was achieved, and we continue that work today.

At our launch, the minister said, "Complaints handling is not just about dealing with things that go wrong, but ensuring that things go right. The commissioners will help to build a culture of learning from complaints through their oversight and promotion of standards. This focus on the quality of service will undoubtedly benefit both consumers and the profession alike."

This is one area where I am proud that we have made significant progress in the past five years. Our new strategy has kept this in focus and the quantity and quality of guidance we are producing for both lawyers and consumers attests to this.

At the same launch, the minister hoped that our creation would ensure "any complaints against the legal profession are resolved quickly and effectively". In the past five years, we have certainly seen an increased success at early resolution of service complaints in our process – helping lawyers and complainers agree a shared outcome. This saves time for all concerned, and leaves both parties happier.

What about efficiency? Some of the concerns raised during the passage of the Legal Profession and Legal Aid (Scotland) Act through Parliament have continued to restrict our effectiveness as an organisation. The complaints process is very tightly prescribed in legislation, and is not always proportionate – a dispute over £50 of white goods in a house purchase must be treated in the same way as the service in a high value litigation case. Equally, at the beginning of our process, the same dispute over £50 must go through the same checks and procedures as an allegation of serious misconduct against a lawyer.



Bill Brackenridge, Chair of the Scottish Legal Complaints Commission

While the Scottish Parliament worked hard to guard against these risks, the system for appealing our decisions to the Court of Session has gradually increased the complexity of our process. It has also raised our costs. This last point was thrown into stark relief when the Law Society of Scotland raised a number of legal challenges against our decisions. We had warned in advance that this would create cost and delay, and affect both solicitors and consumers who simply wanted their complaints investigated. We were pleased for all concerned that our view ultimately prevailed, and that the court ruled in our favour.

Over the last 24 months we have also seen complaints against solicitors rising – more detail is provided elsewhere in this report – but this has created additional challenges for the organisation.

My approach has been twofold – to constantly seek improvements in the current system and to lead a bold call for reform, through our Reimagine Regulation paper. While I wish change could have been secured during my term, I am pleased that a review has been secured and I will watch the outcome with interest.

Finally, I must conclude by thanking Board members, both past and present, for their immense energy and expertise. I would also note the tireless effort of the Chief Executive and senior management team, the board secretary who has supported me throughout, and the whole SLCC staff. I wish all of them, and my successor, the best of luck in the future.

Chief Executive's Report

This has been one of the most challenging years for the SLCC since the organisation was created, but with great challenge often comes great opportunity, and that has also proved to be the case for us.

In my closing comments in last year's annual report we predicted the difficulties ahead – a court decision had changed years of practice in the sector causing huge implications for hundreds of live cases, and complaints coming to the SLCC had risen 12% in the preceding 12 months.

Incoming volumes increased by a further 2% this year, although this was less than we had initially predicted. The number of premature cases (which we refer back to practitioners) also fell, and the number of 'ineligible' cases continued to drop (falling 48% over two years). This means that more complaints are arriving with us, and more are also progressing into the later, and more time intensive, stages of our process.

The increasing numbers of complaints (although low in relation to the overall level of work by lawyers) has a dramatic impact on our workload and staffing needs, which required the levy on lawyers to be increased. That increase was publicly challenged by the Law Society of Scotland including a co-ordinated writing campaign to MSPs. We explained the cost drivers and wider background to MSPs through correspondence and meetings and eventually through parliament.

The 18 litigations launched by the Law Society of Scotland against the SLCC also dominated the year. Hundreds of cases were placed on hold inconveniencing complainers and lawyers. Resources had to be diverted to pay our legal costs. While we were delighted the courts upheld our position, I don't believe either the 18 legal challenges or the campaign against our levy rising increased confidence in the regulatory system, and we hope we can now move on.

Indeed, there have been many developments, improvements, successes and achievements in what the SLCC is delivering. I must say thanks to managers and to all colleagues for taking the extreme pressure of increasing numbers, legal challenges, and often unfair attack in the media and turning that energy into increased output and an even greater commitment to deliver our statutory functions.



Neil Stevenson, Chief Executive of the Scottish Legal Complaints Commission

On a personal level one of the organisational achievements we all contributed to, and which I am most proud of, is a significant improvement on our staff engagement survey results. I'm also delighted we are in the rare position of gender pay parity.

Other achievements are diverse and wide-ranging from trialling new ways to improve our efficiency to a guide to MSPs to support constituent enquiries about legal complaints. We developed our first Records Management Plan to meet new statutory duties, and produced new guides for consumers to help them prepare for, and get the most out of, using a solicitor (and in managing expectations, we hope, to help reduce common issues that lead to complaints). We created a knowledge management plan to ensure we share knowledge that lets us handle complaints quickly and well. We have provided training and case studies to client relations managers to tackle common causes of complaints, and have improved access for our complaints process with foreign language guides. More examples of our work are contained in the remainder of this Annual Report.

Perhaps the most positive and most forward looking achievement came on 25th April with the announcement in the Scottish Parliament of an independent review of the regulation of legal services in Scotland. We had lobbied for this through our #ReimagineRegulation paper, and I was delighted to be appointed to the review panel. This provides a real opportunity to develop a better model of complaints handling for the future, and at the close of this annual report we share some more thoughts on where this could lead.

Progress Against our 2016 – 2020 Strategy

In 2016 we consulted on, and then approved, a bold new four-year strategy for the SLCC. It outlined five major themes and five values that would help us achieve our aims. Our 2016–17 Operating Year was year one of this strategy. How did we get on?

Our five aims

- BUILD TRUST so consumers and lawyers know we are here and have confidence in our service
- PROMOTE STRONG
 RELATIONSHIPS between
 consumers and their lawyers,
 helping fix issues quickly and
 reducing the causes of complaints
- DELIVER EARLY RESOLUTION
 & REDRESS through an independent, impartial, fair, and accessible service which is efficient and effective
- DRIVE IMPROVEMENT through a culture of learning from complaints, quality improvement, and our influence in the sector
- **DEVELOP HIGH PERFORMANCE** as a complaints organisation and employer

Our five values

- PEOPLE FOCUSSED

 We understand, and are mindful of the needs of our diverse service users
- TRUST
 Our processes and outcomes can be trusted by all as fair, independent and impartial
- RESPECT
 We respect the diverse groups
 we work with and are respected
 as an organisation
- 4 As recognised leaders, we take decisive, well-informed action and drive improvement
- 5 EFFICIENCY AND EFFECTIVENESS
 We make a positive, measurable impact



Progress Against our 2016 – 2020 Strategy continued

BUILD TRUST

- Worked to reduce common causes of complaints by improving our newsletter for client relation managers which improved the click rate
- Developed a four year awareness raising strategy to ensure that consumers and lawyers are aware of how we can assist
- Helped MSPs support their constituents with a guide for them on the SLCC and a twice-yearly newsletter
- Continued to work with the Faculty of Advocates on training for advocates and their clerks
- Scoped and budgeted for a more accessible website

PROMOTE STRONG RELATIONSHIPS

- Used our statutory powers to issue new 'section 40' guidance for the profession on how best to handle complaints when they are initially made to the firm or lawyer – the first tier of complaint handling
- Researched the information solicitors record about complaints at the first tier and made recommendations to the Law Society of Scotland on improving recording and sharing this information
- Sought feedback from the profession on how best to deliver training on complaints and avoiding them
- Supported our independent Consumer Panel in producing a report on how the internationally recognised consumer principles could apply to legal services in Scotland

DELIVER EARLY RESOLUTION & REDRESS

- Worked to deliver improvements and efficiency in our complaints process
- Trained staff in process improvement methodology
- > Developed our internal decision making toolkits
- Raised issues with unmet client redress in the national media

DRIVE IMPROVEMENT

- Achieved our aim of a review of legal services complaints and regulation
- Reviewed our approach to overseeing the Master Policy and the Guarantee Fund (now trading as the Client Protection Fund)
- Considered trend information available from our database of complaints

DEVELOP HIGH PERFORMANCE

- Reviewed staff resources and planned accordingly
- Planned and started to implement the use of plain English in our core complaints process
- Further developed staff training
- Implemented a new online Human Resources system to improve management of time and attendance
- Created an internal knowledge management toolkit
- Successfully delivered an upgrade to our case management system

While we have made good progress with the strategy in its first year, there are three further years to go. We are currently working on year two of the strategy and will consult in January 2018 on year three.

Our Board

Our board has a non-lawyer chair, and eight members – 5 non-lawyers and 3 lawyers. The board has responsibility for establishing and taking forward our strategic aims and objectives and demonstrating high standards of corporate governance through an Audit Committee.

During this year four members ended their terms and in January 2017, four new members were appointed.

The board met formally for 14 meetings over the year, as well as taking part in a planning and strategy workshop and several development sessions.

Our board members also have a separate role in determining individual cases at the eligibility and determination stages of our process, either sitting individually or in groups of three, chaired by one of the lawyer members.



Left to Right: Amanda Pringle, Bill Brackenridge, Denise Loney, Dr Michelle Hynd, Prof Kevin Dunion OBE, Sara Hesp, Sarah McLuckie, Kay Springham QC

Not pictured: Emma Hutton



Bill Brackenridge spent 25 years as a management consultant working in both the public and private sectors, specialising in corporate governance. He has served on the Boards of Highlands and Islands Airports Ltd and NHS Highland and has chaired the Board of the Scottish Ambulance Service.

"I've been proud to be involved in the appointment and selection of a hugely experienced and talented board, replacing 7 of our 9 members in the last 18 months. As chair I'm glad we have invested in our development as a team – building learning sessions into every board meeting, and using tools like the 'Kantor' board model to ensure we effectively perform our governance role and hold the executive to account for performance."



Professor Kevin Dunion OBE is Honorary Professor in the School of Social Sciences (Law), University of Dundee. Currently he is also the Convener of the Standards Commission for Scotland. He was Scotland's first Information Commissioner and is a member of the World Bank's Access to Information Appeals Board.

"One of my major focusses has been to promote systems which ensure consistent decision making and that we examine complaints thematically to look for ways to improve our own processes and efficiency, as well as for sharing our learning with the sector."



Emma Hutton is a human rights, equality and social justice specialist. She currently leads communications and participation for the Scottish Human Rights Commission and provides specialist advice to third sector organisations as a freelance consultant. She is also a Board Member and Trustee of Engender, one of Scotland's leading feminist organisations.

"The SLCC has more work to do to reach out to lawyers and the public both to build understanding of our role and performance and to assist in reducing the common causes of complaints."



Dr Michelle Hynd has been Director of Corporate Infrastructure and Development at SSE plc for over 12 years. She has served as a Non-Executive Director of Scottish Business in the Community for 6 years. Prior to this Michelle worked at Scottish Enterprise for 13 years with a focus on economic development in Scotland.

"For all regulators understanding and managing risk in relation to your own activities and the sector is critical, this year I've enjoyed supporting the executive team with my commercial risk knowledge to improve the SLCC's approach."



Sara Hesp is a qualified Chartered Surveyor. She worked in the Valuation Office Agency, where she was a Principal Valuer for more than 20 years. Since leaving, she has worked in the Security Industry Authority and as an independent adjudicator. She is a trained mediator and an Ordinary Member of the First-Tier Tribunal for Scotland (Housing and Property Chamber).

"I hope that bringing the perspective of another profession, and experience from past adjudicative roles, to the board helps share best practice from other regulated environments. With a lease review due in the coming year, and property a big cost for any business, I'm also looking forward to assisting the SLCC on that work."



Sarah McLuckie has held management positions within the NHS, for the Parliamentary and Health Service Ombudsman, OFGEM and the Independent Chief Inspector of Borders and Immigration. She currently works as the Operations Manager for the Mental Welfare Commission for Scotland, where she leads the casework team.

"Having held leadership roles in other complaints bodies I feel well placed both to help with ideas but also to challenge on performance and current approaches. I also joined the board when on maternity leave, and so have been proud to support the executive around creating an excellent work environment in terms of diversity and culture, which we're seeing deliver results in our staff survey."



A practising solicitor for over 25 years, **Amanda Pringle** followed local government experience with time in private practice. The majority of her legal career has been in the social economy, practising within the law centre movement and the provision of holistic services to those in unmet need. She serves as a Trustee on the Edinburgh College Students Association and is a long-standing member of her local community council.

"My purpose in becoming a legal Member of the SLCC is to assist in ensuring lawyers achieve their best at all times and that the public's confidence is maintained in the profession."



Kay Springham is a QC and member of the Faculty of Advocates. She was a solicitor for 10 years and has acted on behalf of, and against, claimants in a wide range of civil cases. As a result, she has a good understanding of the appropriate service which lawyers are expected to provide to clients. She has a particular interest in human rights and equality.

"As legal chairs to Determination Committees we play a vital role in ensuring high quality reasoning and evidence based decisions. I've enjoyed working closely with the SLCC executive to bring an independent eye and a fresh look to issues at the adjudication stage. I've also been working with the other legal chairs to consider how we can continue to improve the quality of our decision making."



Denise Loney is a solicitor in private practice and currently managing director of Optima Legal (Scotland) Limited. She was previously a member of the Scottish Legal Aid Board, including as Convenor of the Legal Services Cases Committee, and formerly a member of a Law Society Client Relations Committee. She is also a tutor at the University of Glasgow, teaching Civil Litigation and Advanced Civil Litigation in the Diploma course.

"Managing a busy legal workload within my own firm I've been impressed at the internal performance management of the SLCC but also able to share learning from managing a high case volume to help identify further improvements."

Bill Brackenridge and Professor Kevin Dunion OBE will come to the end of their terms in December (2017).

The Scottish Government started recruiting for a replacement Chair of the SLCC and a replacement Board Member in September. We are expecting an announcement in December, once the successful applicants have been appointed by the Minister for Community Safety and Legal Affairs.

Report from the Chair of our Independent Consumer Panel



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.

During the last year, the Panel has critically reviewed communications with the consumer on the SLCC website and in anonymised letters to consumers. In relation to the website, we have recommended improvements to make it more accessible and helpful for consumers generally and for those who then make a complaint. Following our scrutiny of an anonymised sample of letters to consumers, we recommended using less technical language and improving communication using plain English.

Building on our knowledge and experience of consumer principles, the Panel produced a short publication which was designed to explain the principles for consumers. It was published on International Consumer Rights Day on 15 March. The Panel also provided training for the SLCC Board on the consumer principles. We hosted our first roundtable event on the consumer principles for a wider group of stakeholders. This attracted 21 participants and was a lively event with extremely useful contributions to our work in this area. The Panel has drafted a more detailed publication for use by stakeholders and this will be published later this year. I would like to thank all of those who attended the event and contributed further comments on the draft publication. We believe this publication will

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.

provide stakeholders and companies with valuable insights which will help to shape policy and strategy across the sector.

We were delighted to have an early meeting with the chair and panel members of the review of legal regulation in Scotland. We had a very productive discussion on issues with the current system for complaints and the need for improvements. Our view is that the current system for complaints about legal services is too slow for consumers and reform is needed to improve the consumer journey through the complaint system. 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.

In last year's report I highlighted that the Panel had identified a substantial difference between the proportion of female complainants (41%) and male complainants (58%). We discussed this with Scottish Women's Aid to gain a deeper understanding of some of the barriers to women making complaints. Scottish Women's Aid has accepted an invitation to join the Panel in 2017 and we look forward to continuing to learn about the issues affecting female consumers of legal services and consider strategies to empower more women to raise their complaints.

It has been a great pleasure to work with the Panel again this year to contribute to a more consumer-focused 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.

Carol Brennan, Chair of the Consumer Panel





Our Year in Numbers

Number of new complaints

1155

261

resolved or upheld

Total redress agreed or awarded for accepted service complaints

£201,863

Hybrid issues:

Recategorised cases held up at liaison with the Law Society of Scotland on order of investigation

22

Hybrid cases where a conduct decision had been made so service was not investigated

29

Recategorised by the SLCC from hybrid to a lawful categorisation

103

Cases at the Law Society of Scotland for investigation where recategorisation was delayed

98

Our Complaints Processes and Key Statistics



Initial checks

Initial checks when we receive a completed complaint form.

This includes checking the complaint isn't "premature" or too soon for our process, i.e. that it has been made to the lawyer or firm complained about.

256 complaints were closed as "premature".

92 formerly "premature" complaints were re-opened.

Eligibility

Before we can take any further action with a complaint, we have to carry out a number of assessments.

While this was intended by the Scottish Parliament to be a "quick sift" it has evolved over time (and due to various court decisions) into a lengthy process requiring significant time and resource.

We can only accept the issues in our summary of the complaint if they are:

- Within our time limit (this changed during the Annual Report year from one year to three years for newer complaints)
- Not "Frivolous, vexatious or totally without merit"

We also categorise the issues as conduct or service.

- 75 complaints were wholly outside our time limit.
- 69 complaints were wholly "frivolous, vexatious or totally without merit.
- 27 complaints couldn't be accepted for a combination of these reasons.
- 159 complaints were accepted for a service investigation by us.
- 138 complaints were accepted for a conduct investigation by one of the relevant professional organisations.
- 117 complaints were accepted for two separate investigations, conduct and service.
- 123 complaints were closed at this stage because they were resolved without the need for a formal investigation.

Mediation

Before the service investigation, we often offer mediation. Why is this?

We know that the independent mediators who provide this service can help bring things to a satisfactory conclusion for everyone by listening to what the complainer and the other party has to say, and helping them find a solution to what underlies the complaint.

While the success rate in the last year was a lot lower than in previous years, it was still

58% and 27complaints were resolved by mediation.

Investigation

Investigation isn't just about writing a formal report on the complaint. Sometimes the extra information that we receive at this stage is enough for our trained investigators to negotiate an agreement between the parties.

This year, 19 complaints were resolved in this way.

Otherwise, the investigator gathers all the information they need before writing an in depth report to establish whether they think the lawyer or firm provided an "inadequate professional service" or not. They send this report to both parties, and make a recommendation as to how the complaint can be resolved.

44 complaints were resolved in this way.

Determination Committee

If either of the parties doesn't agree with the investigation report, the complaint will be considered by a committee of our commissioners. The committee will have a majority of non-lawyer members, although the lawyer member chairs it.

They will look at the complaint, consider the investigation report and other information, before making a binding decision on whether the lawyer or firm provided an "inadequate professional service".

The decision they make is binding and if they do uphold the complaint and order compensation, fee refunds or other forms of redress, the lawyer or firm must follow this.

95 complaints were considered by a committee.

44 complaints were upheld or part-upheld.

51 complaints were not upheld.

Notable Court Cases

A single court ruling, and related legal actions by the Law Society of Scotland, had a significant impact on the SLCC in our 2016–17 operating year. It affected hundreds of cases and created delays for those involved in complaints in addition to creating significant costs for the legal profession.

The background to the ruling was a court case in 2015, Bartos v Scottish Legal Complaints Commission, where an advocate successfully appealed against the decision of our determination committee to uphold a complaint of inadequate professional service against him.

The right of appeal to the Court of Session, against the initial eligibility decision on a complaint or against the decision of a determination committee, is built into our statute. In this appeal, the court noted that it had some concerns about the categorisation of the sole issue of complaint as 'hybrid' i.e. requiring both a service and a conduct investigation. As this wasn't a live issue in the Bartos appeal, it was suggested that this might be raised in another, future appeal.

This system of classifying issues had been operated by the Law Society of Scotland since before the SLCC was created. It meant that the interests of the individual complainer did not have to be set as an either/or against the public interest – there could be safeguards against solicitors guilty of misconduct practicing, and redress for poor service.

The imprecise difference between conduct and service was raised during the parliamentary debate that led to our set up. There are also significant practical differences between conduct and services. The maximum compensation for inadequate professional service is £20,000; the maximum for unsatisfactory professional conduct is £5,000. For professional misconduct, it is also £5,000 but the complainer must claim for this before a discipline tribunal and may be liable for expenses.

The question of the legality of hybrid issues, discussed in the Bartos judgment, was raised as a live issue in another appeal, Anderson Strathern v Scottish Legal Complaints Commission. The categorisation of some of the complaint issues as hybrid formed part of the appeal. In defending this appeal, we were aided by the Law Society of Scotland who provided the court with an affidavit confirming that the practice of hybrid issues pre-dated our creation.

The number of hybrid issues and hybrid complaints had been rising, relative to conduct only or service only. Part of the reason for this was guidance in case law that had strongly emphasised that the bar for a conduct complaint was low. If there was a possibility of a conduct complaint, it was important that it should be investigated, even if it wasn't then upheld.

In the Anderson Strathern appeal the Court found against us and in doing so, ruled that individual issues of complaint could not be hybrid – they had to be either conduct or service. We then had to work out what to do with the hundreds of complaints with hybrid issues which were already with us or the Law Society of Scotland. We tried to do this in agreement with the Law Society of Scotland, but without success. We then started taking action on the complaints that were with us.

For complaints that had a hybrid issue which the Law Society of Scotland had already made a conduct decision on, we could not now make a service decision and many had to be closed. For complaints where we were to investigate service first, and hadn't yet made a decision, we re-categorised them so that there were no hybrid issues, only conduct or service. Our staff worked overtime to do this swiftly, to avoid delays or leaving those party to the complaints being left in limbo.

In December 2016, the Law Society of Scotland announced in a press release and to all its members that it was launching 18 legal actions against us – 17 appeals of individual re-categorisation decisions and 1 judicial review of our decision to re-categorise in general. The first of these appeals, as a test case, was decided in June this year. Until then however, a large number of complaints were left suspended, with no progress made.

The Court strongly supported the decision we had made, saying that it was "good public administration" in response to the challenge of having large numbers of complaints with illegal categorisations in our process. Some of these cases are still in the courts.

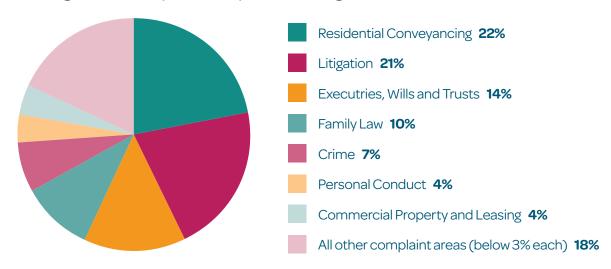
Looking ahead, the low bar for conduct means that in new complaints, if there is any possibility that an issue of complaint constitutes conduct, we must categorise it as such, potentially depriving the complainer of thousands of pounds of redress.

We hope that the ongoing independent review of legal services regulation may lead to solutions to this and other issues.

Trends from Complaints

With a large rise in the number of complaints we received in 2015 – 16 and a continued increase in 2016 – 17, our wider work in understanding the trends in complaints made to us and reducing common complaints has never been more important.

Area of legal work in complaints accepted for investigation



We published guides for consumers on two of the areas of legal business that generate most complaints – family law and criminal law.

For the first time we also published companion guidance for lawyers on how they can reduce the risk of common complaints occurring. This was for criminal law. In this way, we aim to create a shared expectation between both parties and reduce disputes and dissatisfaction.

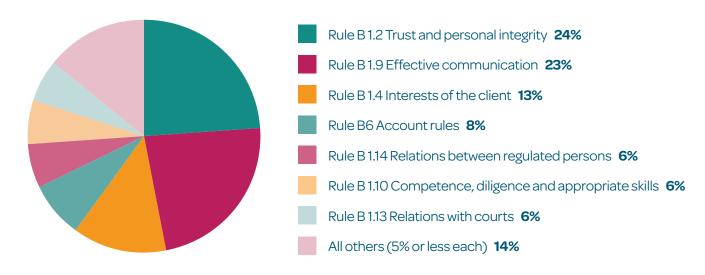
This approach to avoiding complaints was also a key part of outreach to the legal profession. This included talks and presentations as well as a successful e-newsletter.

% Share of recorded service complaint subjects for accepted complaints



We used a different data set to get these figures in the 2015–16 Annual Report. However, this was less comprehensive and as a result, some percentages were overstated or understated.

% Share of recorded conduct complaint subjects for accepted complaints



Our Other Statutory Duties

In addition to our functions in relation to complaint handling, the Legal Profession and Legal Aid (Scotland) Act gives us a number of other important duties.

Faculty of Advocates benchmarking audit

In last year's Annual Report, we mentioned we had started a benchmarking audit under Section 36 (5) of the Act, looking at the Faculty of Advocates' complaints investigation and disciplinary processes. This was completed in September 2016. Although we didn't make any formal recommendations for immediate changes we identified improvements which could be made. In particular that the Faculty should consider taking further steps in the following areas:

- Prepare and promote a set of consumer-friendly Service Standards for Advocates;
- Create and publicise guidance and/or a tariff regarding the application of disciplinary sanctions;

- Publish disciplinary findings on the Faculty's website;
- Advertise the dates of disciplinary tribunal hearings on the Faculty's website; and
- Put in place regular complaints handling training for advocates.

In June 2017 we carried out an update on the key findings. A significant amount of work had already been undertaken by the Faculty of Advocates during the course of the audit, and following it. Although not all the recommendations had been finalised, we welcomed the ongoing commitment by the Faculty to implement further changes. We have valued a strongly collaborative approach.

Handling complaints

Handling complaints are complaints about how one of the Relevant Professional Organisations (RPOs) (the Law Society of Scotland, the Faculty of Advocates or the Association of Commercial Attorneys) has investigated a conduct complaint.

As part of our duties, we can make recommendations to the RPO. A Section 24 recommendation in a handling complaint report recommends action the RPO should take if the administration or decision-making in an investigation hasn't been satisfactory. There was only one of these recommendations made this year. We recommended that the Law Society of Scotland paid the complainer £200 in compensation and £10 costs for delays in the administration of the complaint and the frequency of communication.

We can also make Section 36 recommendations to the RPO about their procedures for dealing with conduct complaints. We made a three-part recommendation to the Law Society of Scotland on improving its complaint handling procedures and we made an eight-part recommendation to the Faculty of Advocates on improving its complaint handling procedures.

There is a close link between our audit function and our handling complaints function. Some of the issues we focussed on in the audit had first been highlighted in handling complaints.

See *Complaint Statistics* for a full set of handling complaint statistics and details of the Section 36 recommendations.

Section 40 guidance

Under Section 40 of the Legal Profession and Legal Aid (Scotland) Act, we may issue guidance in the form of "Best Practice Notes" and make recommendations about standards expected in relation to systems operated by practitioners for dealing with complaints.

While some of this guidance has been available on our website for some time, we reviewed and consolidated this into First tier complaint handling – a guide to effective and efficient complaint handling for Scottish solicitors. As well as clearly-marked formal Section 40 guidance, there are lots of other helpful tips. Whilst this guidance is not mandatory, non-compliance will be taken into account where a complaint has been made. However, the focus of the guide is equally on the value good complaint handling can add to a business.

Guarantee Fund and Master Policy effectiveness

In April 2017 we submitted a discussion paper to the Law Society of Scotland, outlining potential work we could carry out under Section 39(1) of the Act, relating to monitoring the effectiveness of the Scottish Solicitors Guarantee Fund (now trading as the Client Protection Fund) and the professional indemnity insurance ("the Master Policy"). We will have a further update on this work in next year's Annual Report, but have appreciated the positive engagement on this issue by the Law Society of Scotland.

Risk-based levy

In preparing for our public levy consultation in January 2018 we engaged with the Law Society of Scotland and the Faculty of Advocates through a limited consultation seeking their views on moving to a more risk-based levy. We received responses after the end of the Annual Report year and will consider these before taking any further action.



Staff and Industrial Relations

As a small organisation, we are able to have regular face to face interaction between the staff and the management team. We also have employee-nominated staff representatives.

Two formal meetings with staff representatives took place this year, as set out in our policy. The representatives were also consulted on updates to various policies (discipline, grievance, workplace investigation, sickness absence), helped design a staff survey, and ran consultation sessions with staff on the new organisational strategy.

There was also a workshop facilitated by the staff representatives to follow up on the 2015–16 staff survey, and this led to an action plan which was followed up and reported back to staff.

At the end of the 2016–17 year there was a follow-up survey. The response rate was down slightly (72.5%, down from 84% in 2015–16). On nine of the ten questions we achieved significantly higher scores than in the previous year.

We also revised our approach to recruitment and induction – we used staff testimonials to give a personal view of what it is like to work here and introduced a range of practical exercises to place greater emphasis on demonstrating skills. This also included a new induction system and materials, to speed up and improve the quality of the induction process for new staff. In the year coming we will further develop this to better support staff returning from maternity leave or shared parental leave, sickness absence, or secondment.

Training was another focus in the year – we delivered six workshops to our board and seven workshops to staff on specific legal areas, resolution techniques, dealing with difficult conversations and the 'insights' personality types programme.

72.5% response to staff survey

training workshops delivered to staff

51 staff in August 2017

69/31 ratio of female to male staff

£3,728 money raised for staff charity

£30,545 median remuneration

Leading as a fair pay employer

We started our year by welcoming Annabelle Ewing MSP, the Minister for Community Safety and Legal Affairs to the SLCC to celebrate Living Wage Week and our continued commitment to paying the Living Wage, including through our major suppliers.

We can also report that the remuneration band of the highest-paid employee in the SLCC in the financial year 2016-17 was £70,000 to £75,000. This was 2.5 times the median remuneration of the workforce, which was £30.545.

An equal pay evaluation was carried out in August 2017 (although this was one month after the end of the year this report covers, it summarised the preceding year). It was based on staffing in the month the assessment was carried out – 51 staff, 35 females (69%) and 16 males (31%). 41 of these worked on our complaints process or in support of it. 4 worked carrying our other duties under the Act. 8 worked in general support functions.

All staff irrespective of gender are paid according to our current pay and grading structure, are treated equally, and are progressing through our current pay and grading structure based on performance and length of service. Women outnumber men in all our main grades (1–4). In all these grades (1–4) more women are top of their pay band than men.

In our most populated grade (grade 4, 28 of our staff), more females were at the top pay band than males – (82% females top of grade, 18% males). This is driven by length of service. In the next three management grades (5-7) there are equal numbers of men and women

(grade 5 – 1 woman and 1 man, grade 6 – 3 women and 3 men, grade 7 – 1 woman and 1 man). There is no aggregate pay gap across these grades.

The current Chief Executive, the only grade outwith those stated above, is male.

On our senior management team, a sub-group of the above which runs the organisation on a day to day basis, there are currently 4 males (80%) and 1 female (20%). The team has been more gender balanced in the past, but this relates to the current composition of the heads of the key teams within the organisation.

Collaborating on performance

In liaison with the staff representatives we have worked to further reduce sickness absence, with the average staff absence for the year being 3.65% (including all long-term absences in the period).

No grievances were submitted during this period, nor were any disciplinary investigations or hearings undertaken. One previous disciplinary process (May 2016) is being challenged in Employment Tribunal, which we are defending.

Staff charity

Our staff charity for the 2016–17 operating year was the Beatson Cancer Charity. We held a range of staff fundraising events including staff cake sales, raffles, an 'office fayre' and the annual SLCC 'Strictly Charity Auction'. In total, we raised £3,728.

Our staff charity for the 2017–18 year is Butterfly Trust – Cystic Fibrosis Support for Scotland.



SLCC staff present a Beatson Cancer Charity representative with a cheque for £3,728

Complaints Statistics

Enquiries

	2016/17	2015/16	
New enquiries received	1,838	2,292	

Not all enquiries are logged on our system, so this number is only indicative.

Complaints

	2016/17	2015/16
Complaints at the start of the year	664	477
Complaints received	1,155	1,132
Premature complaints reopened	92 1	86 ²
Complaints closed at all stages	1,074	1,063
Complaints at the end of the year	807	664

Previously we have reported on "Complaints reassessed as eligible on appeal". This year, there was one complaint that was reassessed as eligible in this way, but this was offset by another complaint which was reassessed as ineligible on appeal.

Prematurity

	2016/17	2015/16	
Closed as Premature (i.e. the complaint has not been raised with the lawyer or firm before coming to the SLCC)	256	268	
Reopened as no longer premature in year	72	71	

Complaints accepted for an investigation

	2016/17	2015/16	
Service (to be investigated by us)	159	138	
Conduct (to be investigated by the relevant professional organisation)	138	72	
Hybrid-separate issues of conduct and service (with conduct issues and service issues investigated separately, in turn, by the relevant professional organisation and the SLCC)	117	198	

- 1 This includes 20 originally closed as premature in the 15/16 year and 72 closed as premature in the 16/17 year.
- 2 This includes 15 originally closed as premature in the 14/15 year and 71 closed as premature in the 15/16 year.



Complaints NOT accepted for an investigation

	2016/17	2015/16	
Outside our time limits	75	74	
The complaint is "frivolous, vexatious or totally without merit"	69	133	
A combination of the above two reasons	27	19	
Ineligible for other reasons			
Out of jurisdiction	11	1	
No interest to make a complaint	1	3	

Complaints closed before a decision on accepting for investigation

	2016/17	2015/16	
Resolved	123	113	
Withdrawn by complainer	83	43	
Discontinued due to non-cooperation	45	32	

Complaints resolved at mediation stage

	2016/17	2015/16	
Complaints resolved	27	44	

Complaints resolved at investigation stage

	2016/17	2015/16	
Resolved by investigation report – upheld and part upheld	32	54	
Resolved by investigation report – not upheld	12	9	
Resolved by conciliation	19	45	
Withdrawn by complainer / Discontinued due to lack of response	68	18	

Complaints decided at determination stage

	2016/17	2015/16
Upheld	12	23
Partly upheld	32	35
Notupheld	51	44



Complaints Statistics continued

Complaints by type of lawyer

	2016/17	2015/16
Complaints received		
Solicitors	1,145	1,110
Advocates	10	22
Complaints accepted for conduct or service in	vestigation	
Solicitors	410	406
Advocates	4	2
Complaints not accepted for conduct or service	ce investigation or discontinued/withdrawn	
Solicitors	677	668
Advocates	13	18

FEEDBACK

Both parties are issued with a customer service feedback form when a complaint closes. We received around a 13% response rate, slightly down on last year (15%).

Practitioner feedback is strongly positive (irrespective of the case being upheld or not). Across the whole year satisfaction rates for all criteria were between 63% (satisfaction with the recommendation) and 93% (satisfaction with the helpfulness of SLCC staff).

Complainer satisfaction levels are lower, between 34% (reasons for decision) to 78% (satisfaction with the helpfulness of SLCC staff). On average, our scores are slightly lower this year than last.

APPEALS

	Eligibility	Determination	Total
Ongoing from previous year	5	3	8
Received in year	28 3	2	30
Outcomes in year			
Won	4	1	5
Lost	1	-	1
Conceded	5	-	5
Withdrawn	4	2	6
On-going appeals at year end	19 4	4	23

- 3 Includes the 17 Law Society of Scotland appeals
- 4 Includes the 17 Law Society of Scotland appeals



HANDLING COMPLAINTS

These are complaints about how one of the Relevant Professional Organisations or RPOs (the Law Society of Scotland, the Faculty of Advocates or the Association of Commercial Attorneys) has investigated a conduct complaint.

	Complaints about a Law Society of Scotland investigation	Complaints about a Faculty of Advocates investigation
Complaints in hand at start of year	1 (suspended due to ongoing Crown Office enquiries)	1
New complaints received (and accepted)	5	_
Complaints closed in year	5	1
Complaints in hand at end of year	1 (suspended due to ongoing Crown Office enquiries)	_

Outcomes

	Complaints about a Law Society of Scotland investigation	Complaints about a Faculty of Advocates investigation
Satisfactory administration & satisfactory decision-making	3	1
Generally satisfactory administration & satisfactory decision-making	1	-
Unsatisfactory administration & satisfactory decision-making	1	_

Recommendations made

	Complaints about a Law Society of Scotland investigation	Complaints about a Faculty of Advocates investigation
Section 24 Action to be taken by the RPO complained about	1	_
Section 36 About the RPO's procedures for, and methods of dealing with, conduct complaints remitted to it.	1	1
Details of Section 36 recommendations	Highlight the importance of keeping the parties updated, particularly in the period ingathering evidence and report-writing. Observe the LSS's cross copying procedures and apply them consistently throughout the investigation.	Make use of the powers in the 2007 Act for requesting and demanding information and documentation from complainers, practitioners and third parties. Reconsider the process for intimating Committee decisions before providing full written reasons for its decision.



Complaints Statistics continued

Recommendations made

Complaints about a Law Society of Scotland investigation	Complaints about a Faculty of Advocates investigation
Reinforce the importance of Investigators notifying the Clerking Team of communications received from the parties particularly when	Communicate to the parties at the outset the policy on cross copying documentation received at each stage.
statutory timescales for appealing decisions to the Scottish Solicitors Discipline Tribunal are important.	Finalise the complaints process information leaflet and consider publishing it on the website.
	Review document handling procedures as a priority and notify the SLCC of any action taken.
	Consider preparing an index to record the papers which are contained in the Committee bundle and including it as reference or an appendix to the Committee's written decision.
	Ensure that a complete set of papers is kept together, and can be provided in full to the SLCC for service and handling investigations.
	Include in written decisions clear reference to the fact that relevant conflict checks have been carried out and interests have/have not been declared.

See Our other statutory duties for more information on handling complaints.

Scottish Legal Services Ombudsman Legacy Complaints

We continue to deal with a small number of handling complaints that, under transitional arrangements, fall under the powers of the ex-Scottish Legal Services Ombudsman

Complaints in hand at start of year	0
New complaints received	1
Complaints awaiting a decision on accepting for investigation	1
Complaints in hand at end of year	1



Freedom of Information, Data Protection and Records Management

Summary of requests received under Freedom of Information (Scotland) Act 2002	
Requests received in year	43
Requests responded to on time in year	46
Requests dealt with:	
Withdrawn by requester	2
Provided a full response	9
Provided a partial response	7
Information was not held	11
Refused to confirm or deny whether the information was held	1
Reviews:	
Requested	2
Responded to on time	2
Review upheld original decision	2
Exemptions used:	
The information was otherwise accessible	6
Disclosure prohibited under another enactment (e.g. section 43 of our legislation)	3
Future publication within the next 12 weeks	1
Information relating to the formulation or development of government policy	1
Disclosure is likely to substantially prejudice the effective conduct of public affairs	2
Confidentiality of communications	1
Information constituting personal data of third parties	14

We received and dealt with 13 subject access requests under the Data Protection Act.



This year we delivered our first Records Management Plan to National Records of Scotland, in line with the Public Records (Scotland) Act 2011. The draft was successfully submitted on time and the archiving of historical files has been completed and continues on an ongoing basis as cases hit the archiving triggers.

We also started our planning for the commencement of the General Data Protection Regulation in May 2018 during the 17–18 year. We will have more on this in our next Annual Report.

SLCC Chief Executive Neil Stevenson delivers our draft Records Management Plan to National Records of Scotland

National Performance Framework

As an independent public body, we receive no public funding. However, the National Performance Framework does influence some of our work.

The SLCC is independent of government and of the legal sector. Based on our governing statute we set our own priorities and budgets, something that is key to ensuring the mutual confidence of the professions and the public in how we impartially resolve disputes.

The National Performance Framework, however, continues to provide a useful tool in our strategy and legislative change work as we tried to 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.

In our proposals for the future we have been conscious that consumer confidence is critical to economic stability and growth, and effective complaints handling plays a vital role in that. Likewise, our approach must be proportionate and support sustainable legal businesses which are vital as part of the access to justice framework (supporting social cohesion) as well as being important to our economy (and to ensuring Scotland is an attractive place to do business).

As part of our role in tackling inequality we have carried out reasonable adjustment and accessibility training with our staff, unconscious bias training with our decision makers, have reviewed the demographics of those making complaints to look for issues and barriers, and have launched foreign language versions of our guide to making complaints. We have made further commitments to work in this area for the coming year, including signing up to the Government's Social Impact Pledge.

Our strategy was based on the original 'justice outcomes', and this year we have taken account of the Scottish Government's 'Vision and Priorities for Justice in Scotland' (updated in 2017). We consider that complaints resolution is part of ensuring respect in exercising rights and responsibilities and that legal services are fair and accessible. We have published new consumer information on family law and criminal law.

Although outside the public sector finances, we too are guided by the objective that institutions and processes are effective and efficient. Throughout this Annual Report you will find reference to work in that area, and as well as tackling those issues within our control having lobbied for legislative reform that may allow further improvements we were delighted when an independent review panel was set up to examine this.

Much of this work, and our core role, is about the rebalance of power between consumers and professionals – not only supporting consumers who will have much less knowledge and ensuring they receive an appropriate service, but also in providing impartial determinations which can give closure to a practitioner who has done all that they can for the client even if the client is not satisfied. We believe this role, within Scotland's unique and historically separate legal system, and the values it upholds, plays a part in a strong, fair and inclusive national identity.

We have continued our work as a Living Wage employer, especially in relation to supply chain, and were delighted to welcome Annabelle Ewing MSP, the Minister for Community Safety and Legal Affairs to a meeting with staff and management at the SLCC to celebrate Living Wage Week. We have been recognised as a 50:50 by 2020 partner organisation, and have published equal pay data.

We would also note the value delivered by our Sponsor Team at the Scottish Government which represents a saving to the sector – the SLCC have accessed free training and advice for staff and Board members, have worked positively on the public appointments process for new members, and value the independent audit of our finances and performance which they organise. In this year we have especially welcomed support and expertise from the Property Team as we prepared to review our lease arrangements.



Annabelle Ewing MSP, the Minister for Community Safety and Legal Affairs meets with SLCC staff to mark Living Wage Week

Biodiversity and Climate Change

We are conscious as a public body of the need to support sustainability and play our part in reducing Scotland's contribution to climate change.

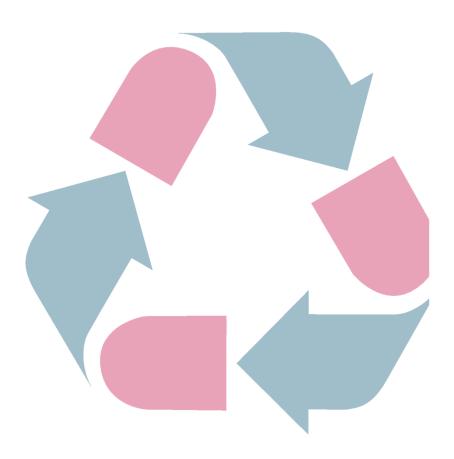
In September 2016 we approved an ambitious internal sustainability policy with five practical aims:

- Cutting paper consumption
- > Minimising staff and board corporate travel and promoting public transport
- Sustainable procurement
- Reducing wasted energy
- Promoting recycling

This was timed to coincide with our participation in Climate Week. Our staff learned about fuel efficiency from Home Energy Scotland and tried out new ways of reducing waste, recycling and reusing.

In March, we took part in Pass it On Week with a stationery amnesty and a book and DVD sale for charity.

At the end of the year, we receive a report from our recycling provider on our recycling for the year. In our 2016–17 year, we recycled 5.43 tonnes of material, diverting 2.1 tonnes of CO_2 .



Chief Executive's Closing Comments

We enter this coming year far more optimistic than the last. 99



Neil Stevenson, Chief Executive of the Scottish Legal Complaints Commission

We enter this coming year far more optimistic than the last.

With a successful outcome for the SLCC to the previous year's unnecessary litigation against us, the complaints delayed by that now progressing, and with incoming complaints now rising less steeply we hope we have a period where the performance improvements being reported the year before can be returned to, consolidated, and improved on. We have already started to pilot some changes to our process aimed at further improving efficiency which had been scoped 12 months ago but had to be placed on hold due to the uncertainty created by the court actions, and we will be continuing to look for ways to ensure proportionate handling of complaints within our prescribed legislative framework.

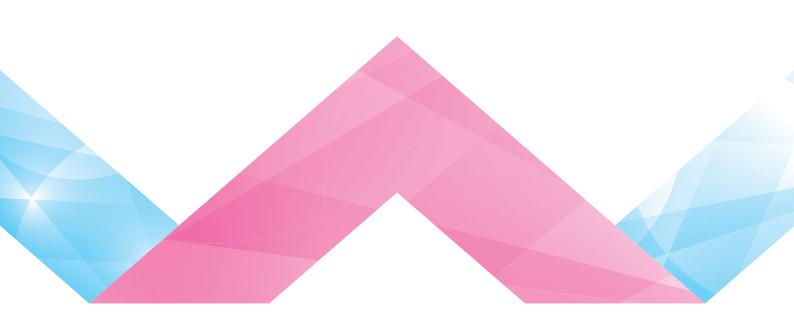
We have been grateful for the positive engagement of the Law Society of Scotland in recent months, with the organisations immediately working together after the court decided in the SLCC's favour to prevent the other litigations launched by the Society needing to go to the cost of further expensive hearings. We commend their recent consultation on rules around complaints logs in firms, and have welcomed input on issues around our levy structure and communications which help us operate efficiently and effectively. We are now in talks about improvements to the system that may be of benefit to all.

We are also encouraged by the independent review of the regulation of legal services and broad terms of references set out by the Minister. There is also a real opportunity to reduce the cost, complexity, and number of bodies involved in processing individual complaints. There is a chance to focus on proactively managing risks to consumers and the public, rather than a 'one size fits all' approach. There is the ability to enhance the independence of regulation and complaints handling, and ensure a proportionate and agile structure which supports a sustainable profession and protects the public. Such a fundamental opportunity to review a whole regulatory framework is rare, and the panel have a unique opportunity and responsibility in the recommendations they make, or don't make, which will resonate with the sector and with consumers for the next twenty to thirty years.

There are, of course, challenges for the SLCC too. The organisation's current lease comes to an end in September 2018. Work is already underway to review property needs and costs, and look at options, but any such process has potentially significant implications for an organisation. We will also be refreshing our procurement of legal services to the SLCC (one of our biggest costs). We continue to work to prepare for 'Alternative Business Structures', which has both technical challenges and great uncertainty as to the financial sustainability of a separate regulatory and complaints scheme and infrastructure for an as yet not well quantified demand and market.

We will also welcome a new Chair to the Board (as Bill Brackenridge demits office), as well as a new Chair of Audit Committee (with Professor Kevin Dunion OBE coming to the end of his statutory term). I would like to extend my personal thanks to both – they have been leaders, mentors, and sources of that vital constructive challenge to me and the management team. We will miss them both, but are also looking forward to welcoming new members to our Board team in January 2018.

It is another busy year ahead, but I am confident that working with our fantastic staff team, our hugely experienced Board, the expertise in our Scottish Government Sponsor team and with our key stakeholders in the legal professions and representing consumers that we can meet all these demands.







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