

# Resolving Complaints | Improving Practice | Inspiring Confidence

Our draft operating plan and budget for 2018 to 2019

Complaints handling which is:

*Independent | Fair | Impartial*  
*Accessible | Efficient | Effective*



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## 1 Introduction

- This document sets out the SLCC's draft Operating Plan for the operational year 2018/19 for consultation. This is provided in **Appendix 1**.
- **The closing date for responses will be 17:00 on Tuesday 13 March 2018.** The SLCC consult at the same time each year, as set by statute, and no late responses will be considered by the Board. We must publish the outcome by the end of March.
- The Operating Plan is aimed at delivering the third year of work under our Strategy for 2016 to 2020. We consulted on the Strategy in January 2016, and the Board of the SLCC has reconfirmed its commitment to it during the preparation of this Operating Plan.
- The strategy sets out the SLCC's statutory functions, gives details of the complaints process, describes our five main strategic priorities, defines our values, sets out the environment we are operating in, provides context to the way we operate and explains why we selected certain priorities for the four year period covered. More details on our strategy are available at: <https://www.scottishlegalcomplaints.org.uk/about-slcc/our-purpose.aspx>
- This consultation document also sets out our proposed budget for the year 2018/19 and provides information on the expenditure, general levy and complaints levy proposed for the 2018/19 financial year. It also notes changes in our operating environment since our strategy consultation and published plans for 2016/17. The proposed budget, and views, for consultation are provided in **Appendix 2**.
- This year all funding for projects and initiatives is the same as, or less than, the last two operating years. After two year's high expenditure on legal fees due to the Law Society of Scotland's legal challenges we are now in a position to reduce legal costs. However, a 5.2% increase in budget is proposed. This equates to a levy increase of 8.5%, as this year marks the end of the subsidising of levies from reserves. The key driver of cost is the ongoing increase in complaints numbers and more cases progressing to the later stages of the complaints system. Any rise in costs is unfortunate, and full details of the drivers of cost and key areas of expenditure are provided later in this document.
- Full details of the consultation are available at: <http://www.scottishlegalcomplaints.org.uk/consultation>
- Acronyms or technical terms we use are explained in a glossary at **Appendix 4**.

## 2 Our operating focus

- Our core focus is to deliver an independent, impartial, fair and accessible complaints process which is efficient and effective. This is where the majority of our staffing and resource is directed. Our performance is monitored monthly by our Board.
- How we deal with legal complaints is shaped by several factors – the incoming number of complaints, how these complaints are categorised, whether they pass the first stages of our process, whether an agreed resolution is achieved or formal determination required, and whether they are appealed. We have to respond to a demand-driven case load (over 1,150 incoming cases a year) and have a statutory obligation to have adequate resource to process that workload. However, the purpose of our Operating Plan is not to detail this complaint handling work - it is taken as a given – and as a result the Plan has greater focus on the specific projects and improvements planned for the operating year.

- Information about our core processes is available on our website at: <https://www.scottishlegalcomplaints.org.uk/making-a-complaint/complaints-process.aspx> and information on our performance can also be found on our website at: <https://www.scottishlegalcomplaints.org.uk/resources/annual-report-accounts.aspx>
- We have a range of other statutory functions which must also form part of our annual priorities. These include: giving advice on complaints; issuing best practice guidance; monitoring trends; investigating ‘handling complaints’ which look at how the professional bodies (RPOs) deal with conduct complaints; monitoring the effectiveness of the Client Protection Fund and Master Policy; and supporting our statutory Consumer Panel.
- Over 90% of our staff work directly on tasks that deliver our statutory functions – the remainder support these functions with internal services (Facilities, HR, Finance) or through external work (engagement with stakeholders, outreach, and communications). Finally, we have a small amount of project work we undertake each year - the work and projects chosen are drawn from our strategy. This accounts for around 1-2% of our direct costs (for example, a payment for a product, service, contractor or license to deliver the project which is met from our budget), and a small amount of staff time.
- Following feedback to our consultation two years ago, we have again used our statutory functions as a framework for the Operating Plan. Where we make reference to “section (‘s’) numbers”, these relate to the Legal Profession and Legal Aid (Scotland) Act 2007 (“the Act”). Columns to the right then indicate how each planned item of work links to our strategic priorities in delivering those functions. Our strategic priorities are to:
  - Build trust
  - Promote strong relationships
  - Deliver early resolution and redress
  - Drive improvement
  - Develop as a high performing organisation
- A number of this year’s proposed projects have a consumer focus. The feedback we collect from lawyers and consumers shows that consumers are relatively less aware of our services and need more support to engage in the process effectively. However, it is important to emphasise that projects which are based on trends and aimed at improving confidence in the sector have benefits for both consumers **and** lawyers. Academic research has shown that this also improves economic sustainability and growth.
- In taking these projects forward, we will try wherever possible to work collaboratively with stakeholders including consumer groups and the RPOs. This helps us access expert knowledge and ensures that costs and duplication of work are minimised.
- Throughout the draft plan we have also indicated what stakeholders can expect us to deliver as part of our work. This may not cover every aspect of the project or activity, but will help stakeholders track our progress.

### 3 The environment we are working within – drivers of cost

- **The environment in which we operate continues to change.** In this section we set out the factors that are increasing the cost of our operations.
- **We saw a significant increase in complaints in 2015/16.** We reported a rise of 12% in our Annual Report for 2015/16. Previous Operating Plans had been based on a prediction of a stable number of complaints so that year’s unexpected increase had a significant impact on cost and resource needs and, on the basis of on-going trends, we predicted complaints would increase again in 2016/17.

- As predicted, complaints increased again in 2016/17, coupled with a decrease in the number of premature and ineligible complaints.** Complaints rose steeply at the start of the year, although this reduced in the second half of the year resulting in an overall year-end increase of a further 2% on top of last year's record 12% increase (a total of 14% over two years). The fact that premature and ineligible cases also continued to fall (48% over three years) meant that more complaints entered the later stages of the system. During the year we started work to examine why complaints were rising, particularly looking at whether the increase stemmed from particular business areas. However, from the data we hold it appears that the issue is across all areas of practice and all types of complaint, so no clear single driver is visible. Overall, the number of lawyers has risen in this period, and that, linked to a healthier economy than a few years ago, may be leading to a rise in transaction numbers (which could lead to a proportionate rise in complaints). We will continue to scrutinise data to look for causes.
- This year we have seen a further increase in complaint numbers in the first and second quarters of 2017/18.** We have received 596 incoming complaints, compared to 549 in the same period last year, a further 8.6% increase. If this year follows the same pattern as last year this may slacken in the second two quarters of the year, but will potentially still lead to a third consecutive year of increased complaints. The Board must also consider a scenario in which the rise is steeper. At this stage in the year it is too early to tell for definite. We have been working with an independent statistician to understand five years of complaints data and the best predictions we can make based on this. At the time of approval of the budget the best predictions which can be made suggest an environment of increasing complaints in the sector, and we must make budget predictions based on this. It is recognised this trend prediction could change (several lower months in a row would bring the future projection closer to a flat line) but at the time of setting our budget, and due to the gap between the levy being consulted on (January 2018) and the 18 months before the next levy is set and collected (July 2019), prudent budgeting means we must take account of the best data available at the time of decision.
- This year we undertook work, including discussions with the RPOs, to look at why a long-term and significant rise of complaints might be occurring.** We can analyse complaints by practice area (conveyancing, or family) and type (delay or communication). Complaints seemed to be rising across the board, with patterns in these areas fairly similar over the last eight years other than being increased overall. We can examine trends in firms being subject to complaints, but no significant trends were identified. We looked at the market, and increasing business as the country came out of the worst of the downturn and at increased solicitors numbers, either of which might influence a proportional increase in complaints, and this could be one factor. We also assessed data on consumer trends – an increasing trend to complain overall, and change in Scotland where evidence has historically always suggested consumers have complained less, but with some studies showing that gap shortening. We liaised with other complaints bodies, and noted legal complaints were increasing in England too. No single factor provides clear statistical evidence. It cannot be said, from the evidence, that standards of work have changed, only that complaints increased. For the SLCC, that continues to mean increasing work (irrespective of cause).
- We wish to reduce further the time taken to resolve complaints.** This was showing significant progress at the end of 2015/16 through improved working practices, but that progress stalled due to higher numbers of incoming cases, and cases being placed on hold due to litigation by the Law Society of Scotland. By the first quarter of 2017/18 times are again showing improvement. Our board sees this as a priority for both consumers and those subject to a complaint – for both parties a swift outcome is important. Our key stakeholders indicated this was also a high priority for them, in terms of how we focus our work. Resourcing in this plan is directed at this goal.
- 17 Court of Session Appeals and a Judicial Review led by the Law Society of Scotland, have created huge costs for the SLCC.** While our position was favoured by the courts, substantial legal costs were incurred together with management time, communication costs, and hundreds of cases were delayed as a direct consequence of these legal actions. Whilst legal costs are now mainly paid from 2016/17 and 2017/18 budgets, the delays caused, and resource needed to address these, will continue to be felt for at least the next 12 to 18 months. At the time of publication

one case is still outstanding, due to technicalities, and is still creating weekly legal costs and resource demands. Our communication prior to litigation being started was clear in that the Law Society's actions would drive costs for all lawyers, but they took the decision to proceed.

- **For the last four years we have been gradually reducing our reserves and the subsidy provided to the levy on the profession from our set-up funding and budgets.** This was something stakeholders had encouraged, and was appropriate as the organisation increased its experience in budgeting and managing risk. This means that even if all expenditure had remained static, we would have needed to raise an additional £98,000 from the levy in 18/19. We have been transparent in previous consultations on what the 'real' levy would be if we were recovering full costs for that year, and the 'adjusted' levy on the basis of a subsidy from reserves. Our reserves policy is to aim to have 2 months operating costs available.
- **It had been predicted that 'Alternative Business Structures' may have been authorised in the 2016/17 business year** under the Legal Services (Scotland) Act 2010, but this did not happen, meaning our role in this is delayed and, for the seventh consecutive year, resources have been required without any recovery.
- **The context of how the levy has changed since the SLCC was established in 2008 is also relevant.** In the nine accounting years since creation the levy has moved up or down every year but one. This reflects the statutory requirement to fund necessary work each year counterbalanced by work on efficiencies and ensuring the lowest practicable levy is set. In some years the SLCC has been able to demonstrate its commitment to rigorous cost control by reducing the levy, however, as work increases rises have then been required.

## 4 Efficiency savings

- The SLCC is committed to finding efficiency savings each year. Where possible, these are used to offset the need for increases to the levy.
- **In 2015/16** we reported that we intended to bring the payroll function in-house and develop an online HR System. Both have now been actioned with associated financial savings and release of staff time.
- **In 2016/17** we focussed on further development of our case management and records management systems which will drive further improved in-house behaviours and efficiencies. We have not replaced a departing Senior Management Team member, reallocating duties to existing staff, to find further efficiency in our staffing budget.
- **In 2017/18** we restarted various efficiency pilots approved in September 2016, but put on hold while we awaited the outcome of the litigations taken by the Law Society of Scotland. Now the court has ruled in the SLCC's favour, and workflows are returning to normal, work on these is underway with external support evaluating the efficiency impact. Although it is currently only Q2 of this financial year, we are also anticipating savings on legal costs, and some saving on staff costs.
- **For 2018/19** we propose savings on office running costs, member expenses, training, staff expenses, case related legal fees, and communications. We are recommending new lease arrangements to Scottish Ministers which, if accepted, will deliver an annual saving of over £16,000 in each of the next five years (from Sept 18). We negotiated potential pension savings, and await input from the Scottish Government.
- Overall, however, the complexity of both the legal requirements around complaints, and also of the underlying transactions being complained about, make this a resource-intensive process.



- For example, at 'eligibility' – the part of our process which ALL complaints are required to go through and which utilises the majority of our staff resource (and so had the highest cost to us) – there are a large number of tasks to be undertaken. Case Investigators must: review the complaint form, decide if the complaint is premature, work with both parties to understand the issues being complained about, classify each issue as service or conduct, liaise on classification with the RPO, check whether each issue raised is within the relevant time limit (which is different for service and conduct issues), and test each issue against the three legal tests of 'frivolous, vexatious, and totally without merit'. They must seek comments from parties before issuing a final decision. The reasoning must be clear to all parties, and be able to withstand appeal to the Inner House of the Court of Session. All of this is prescribed in statute, and is just the first 'pre investigation stage' of the statutory process. In addition, and throughout this process, staff will be trying informally to conciliate the complaint where appropriate. Ideas for how to make this more efficient, within the confines of the Act, are constantly being looked for, but are welcomed from stakeholders.

## 5 **Headline details of budget**

- Anticipated expenditure: £3,391,975 (previous year £3,223,700).
- Anticipated income: £3,406,199 (previous year £3,125,145).
- Anticipated funds/subsidy released from reserves: £0 (previous year £98,555).
- General levy: £386 full levy (previous year £356). *This is based on the increase being applied to all lawyers – see Section 10 for alternative approaches.*
- Complaints levy – there will be no change to the complaints levy.

## 6 **Approach to budgeting**

- In line with policy and past years the approach follows these steps:
  - The SLCC sets out anticipated expenditure based on its operational plan.
  - The general levy is then calculated on the basis of covering anticipated expenditure in full (i.e. nothing available from reserves).
  - The current year forecast outturn at December 2017 is reviewed, together with the results for the financial year to 30 June 2017. This provides an estimate of anticipated reserves at year end, and the implications for the general levy for 2018/19.
  - The proposed levy is set and the budget issued for consultation (including the complaints levy).
  - The draft budget is reviewed in April taking into account consultation responses and a further quarter's financial data
  - The SLCC sets the final budget and lays it before Parliament by April 30 2018.

## 7 Expenditure

- **Appendix 2** contains the summary of expenditure by line item, with a comparison to the previous year (i.e. the 2017/18 year). The overall budget shows an increase of 5.2%.
- The main drivers of this increased cost are;
  - Increased staff numbers to cope with a sustained increase in complaints, more complaints entering the later stages of the system, and allied to a strategic objective to reduce journey times significantly for all parties, which accounts for approximately £163,225.
  - Reduced use of reserves compared to previous years, down from £98,555 to £0.
  - Annual salary and spinal point increases which accounts for approximately £59,750
- The SLCC has always sought to offset the impact of staff costs by ensuring where possible more efficient use of all indirect and non-staff resources. However a number of these costs will rise in 2017/18:
  - Property Costs – increased service charges have led to an anticipated 3% increase on the previous year.
  - IT Costs – increased staff numbers and associated licence costs account for a 6% increase.
- A key factor is the small funding base of the SLCC. With only around 11,500 practitioners paying a levy, even small increases in base operating costs have an immediate impact. A £12,000 increase in costs equates to an average £1 on each levy.
- Once our Operating Plan for the year is finalised, in light of consultation feedback, work will be managed within these constraints (although we anticipate more efficient and effective working may allow us to achieve more).
- The SLCC has again taken the decision to exclude a contingency provision from the 2018/19 budget. It is felt that the budgeting process and experience of previous years' outturns provide a sufficiently accurate forecast of anticipated spend. In the event of additional unforeseen expenditure requirements, the SLCC would have recourse to its remaining reserves.

## 8 Reserves

- Reserves are anticipated to be in the region of £400,000 at the start of the 2018/19 financial year. This figure is below the parameters set out in the reserves policy, which is constantly under review on the basis of risk and operating costs.
- In previous years we have used reserves to subsidise the levy, working to achieve the lowest level of reserves appropriate for business risks and operating costs. Over the last four years we have clearly communicated that this subsidy will come to an end when reserves are around the target level.
- This point has now been reached this year. Meaning that although the budget had only risen 5.2%, the levy increase is higher as it is also accommodating the amount which was previously subsidised.
- A small return to our reserves, to move us back closer to our reserves policy, is anticipated within this year's budget.



## 9 Income

- The SLCC has based income on:
  - Anticipated income from the general levy. The bulk of this is from members of the Law Society of Scotland and is calculated on the basis of the number of practising certificates at the start of the current year. Final adjustments will be made in consultation with all the RPOs. The underlying calculations are based on the same approach as in previous years but it is proposed that the general levy increase by 8.5% for all categories of practitioner. **Appendix 2** sets out the detail.
  - Anticipated income from interest earned on deposits. This is forecast to be £30,000 for 2018/19 reflecting current and anticipated levels of investment return.
  - Estimated complaint Levy income of £25,000 has been recognised for budget purposes for the financial year 2018/19.

## 10 Apportionment of the Levy

- The issue of the apportionment of the levy has been discussed previously, but the subject was brought to the fore most recently within the context of the SLCC's budget consultation during January to March 2017. In particular by:
  - The Law Society of Scotland, which argued that in-house lawyers and Legal Aid lawyers were particularly impacted by any increase in the levy, and that the SLCC should consider the position of these groups in terms of proportionality.
  - The Faculty of Advocates, which raised concerns at the burden on their members, again referring to the relatively small number of complaints which their members generated.
  - The Crown Office and Procurator Fiscal Service, which responded commenting on the impact of the levy on in relation to their (in-house) lawyers.
  
- In response to the issues raised by these organisations the SLCC committed to a consultation on whether a different approach should be taken to the apportionment of total costs.

### The current position:

- The current legal arrangements require that a levy is placed on an individual, not a firm or business unit.
- This limits some approaches which might otherwise appear sensible – for example, a basic rate, with a surcharge for firms providing legal services in those areas at higher risk of complaint (see below).
- It also means business levers cannot be used to encourage appropriate complaints handling. For example, a lower levy for lawyers in firms with no upheld complaints in the last year and / or a higher levy for firms with complaints or a discount for those with best practice complaints policies publicly available on their website.

- A levy focussed on individuals also means there may never be a true link between risk and cost – for example, a two partner conveyancing firm may only have two other staff, their neighbouring two-partner law firm may have 30 paralegals. We cannot take that into account under the current legislation, as the levy is only on the individual lawyers and not the business unit.
- The Law Society of Scotland is currently requesting legislative changes to allow entity based regulation. If government is to consider this, at the same time there will be a need to consider how the complaints system and levies could also be moved, in part, onto an entity basis.
- We need to ensure that there are no adverse equality and diversity issues in any change to the system.
- We also need to ensure that the model does not create unintended or unjustifiable barriers to entry to the market / remaining in the market (for example, recognising the small nature of many legal businesses and the overall costs of practice – see below).

#### **Overall costs of practice:**

- Every lawyer must pay a number of statutory fees / costs in order to practice. These include membership of their professional regulator (each of these currently has dual functions as a representative body for that group, and as a regulator), indemnity costs, and complaints costs.
- For lawyers and legal businesses, the total of these costs has a key financial impact on their business.
- Over the last five years (previous to last year's budget) the SLCC's total increase in levy had been only 5%. For some groups, like in-house, it had actually fallen over that period.
- Over the same five year period (although the start and end months of our financial years are different) the Law Society of Scotland's fees for a practising members (retention fee + PC fee) have risen 4% (£625 to £650) and the cost for non-practising members (retention fee + non-practising member fee) has risen 33.3% (£225 to £300). Although a year ago, these comparison periods are cited as they were used in our year long discussion on apportionment of the levy and is the data we previously published to stakeholders as part of that.
- The costs of the Scottish Solicitors Discipline Tribunal have risen by 38% in its latest publicly reported financial year.
- The costs have interdependency. For example, a high number of complaints can drive up indemnity costs, or investment in prevention could reduce indemnity and complaints costs.
- The total cost of practice issue also affects the potential effectiveness of any SLCC policy change. For example, whilst the SLCC has reduced costs for in-house lawyers over the last five years the Law Society of Scotland costs for in-house lawyers have increased, offsetting any substantive change in actual cost of practice for in-house lawyers.

#### **The issue of risk:**

- We discuss the issue of risk and appropriate regulation in our ***#ReimagineRegulation*** paper on legislative reform.

- In that paper we cite the 'Better Regulation Executive' work which sets out five principles of good ('right touch') regulation (Proportionate, Consistent, Targeted, Transparent, and Accountable). These are supplemented by a sixth (Agility) in the approach recommended by the Professional Standards Authority (an expert body which oversees the regulation of health professionals), in its seminal paper on 'right touch' regulation in 2010.
- The risk of complaints in the legal sector has a significant link to practice area: 74% of all complaints relate to one of five key practice areas:
 

- Residential conveyancing	22%
- Litigation	21%
- Wills, trusts and executries	14%
- Family Law	10%
- Criminal Law	7%
- If you remove litigation, the others all relate purely to work for members of the public, and still account for 53% of complaints. This work is less likely to be undertaken by those in large commercial law firms and by in-house lawyers. There is a strong argument, therefore, that their levy currently subsidises the cost/risk in other practice areas.
- Stakeholders have also raised the issue of the costs for Legal Aid lawyers. There are different factors here.
  - Firstly, they are generally working in fields which relate to higher levels of complaints and cost.
  - Secondly, they are harder to 'define'. Lawyers and firms may hold the right to offer legal aid, and so show on the Scottish Legal Aid Board register, but in terms of percentage of practice spent on legal aid, as opposed to private practice, there is no regulatory data. This could be high or low, and, irrespective of volume of work, profitability could be high or low.
- The complexity of defining groups to receive a discount could introduce disproportionate cost in collection of the levy and discussions would need to be had with the Law Society of Scotland and the Scottish Legal Aid Board to ensure relevant and accurate data models could be created and maintained.
- The SLCC has also raised the issue of legislative change to allow the more joined up use of regulatory data to protect consumers and manage risk. For example, the SLCC does not have good access to other regulatory data that would allow risk to be assessed against other factors such as size of firm, business model (traditional partnership or LLP, etc.), which may link to risk.
- No model will be perfect. For example, complaints against a certain group may be low, but a single complex case, which is then appealed to the Court of Session etc., can have significant cost. To avoid significantly varying levies year on year the levy for any group will have to recognise that there will be years where the costs in that category may be higher.
- The 'consistency' principle links back to the issue of 'total cost of practice' – policy might most closely align to the better regulation if the total 'cost of practice' had a coherent set of principles underpinning it.

## What would be possible in 18/19?

- Addressing these more complex issues will take time, and will potentially require new data collection and a new approach to levy collection – the cost of which would need weighed against the advantages.
- However, simple changes are possible which better reflect risk and the drivers of cost of regulation and complaints. Rather than dramatically adjusting rates a better balance could be achieved over the next few years through what groups pay for rises, or benefit from any decrease in cost in future years.
- As noted, the vast majority of complaints relate to private practitioners dealing directly with the public on private client matters. There would be strong arguments that increases to the levy should fall there, making a 10% rise for that group, but no rise for in-house lawyers (which have very low numbers of complaints) or for advocates (who over the last five years have had, on average, only 16 complaints and sometimes as low as only 10).
- It is recognised that within private practice there will be areas and firms which lead to higher complaints, and those that may have no complaints. However, this is the clearest and most cost effective way to rebalance the levy more in light of risk without adding to the cost of collection. Whilst the SLCC continues to base our proposal on an across the board rise, if the Law Society wishes to put forward a formal proposal, based on their opening up of the discussion in last year's consultation about the impact of increases on certain groups, we would consider adjusting the levy accordingly.
- The lowest level of all complaints is against advocates. If, on the basis of cost and risk, no increase were applied this year to advocates all other lawyers would have a 8.7% increase.
- As we must reflect input from all the Relevant Professional Organisations, and others responding, a key issue will be whether there is consensus on a gradual move to a more risk and cost based approach.
- We are asking for views on this in response to this consultation.

## 11 The Legal Services (Scotland) Act 2010

- The Legal Services (Scotland) Act 2010 creates new types of complaints, and new types of levies to fund the work. There are three new levies.

Two levies will be paid by the regulator:

### Approved Regulators (ARs):

<http://www.legislation.gov.uk/asp/2010/16/section/80>

1. An annual levy
2. A levy each time a complaint is passed to us and the SLCC upholds that complaint

One levy will be paid by the new types of business (Licensed Providers) that AR will regulate.

**Licensed Providers:**

<http://www.legislation.gov.uk/asp/2010/16/section/81>

3. An annual levy (which is in addition to the levy on each solicitor within the Licensed Provider)

\* *There is also a complaint levy which can be applied when an LP complaint is upheld, however, this will be the same as for existing firms.*

Each AR will need to make provision for the collection of this new levy from the Licensed Providers, per s.57(d) of the Act (which was amended by s.81 of the 2010 Act).

- It is important levies from solicitors and advocates collected under the 2007 Act do not subsidise new regulators and new business models.
- The levies therefore need to pay for:
  - costs expended over the last eight years, since the passing of the Act
  - the setting up of the new systems (including legal advice on processes and policies, IT set-up, training of staff and commissioners, creation of templates, etc.),
  - the first year of operating costs (including staffing, professional advice, etc).
  - the accrual of reserves, in particular for expensive litigation as this is anticipated in the first few years of operation
  - a contribution to the fixed costs of the SLCC (such as rent) to avoid cross subsidisation – initially set at 0.5%
- In January 2017 The Law Society of Scotland was approved as an ‘Approved Regulator’. From that point, the AR is liable for payment of levy, collected at the next normal point within the SLCC financial cycle (1<sup>st</sup> July each year). Other organisations may apply to be an AR in due course.
- However, in setting the levy the SLCC must, under the statute, consult with, among others, the AR. The consultation is fixed in statute as being in January (and is then due to be paid in July of the same year). This meant no fee could be set for 2017/18, as the AR did not legally exist when the consultation was approved in December (and it took some time for the SLCC to be notified they had been approved).
- By July 2018 the Law Society of Scotland will, therefore, have operated for 18 months without paying a levy. That is the natural effect of the drafting of the statute, but after that grace period to allow for set-up a fee must be paid.
- Costs have been estimated for the work to establish a regime for an AR and for LPs, covering set-up and the first year of operations. Details are provided within Appendix 3. A realistic total cost may be around £160,000.
- Of this figure, around £58,000 relates to initial set-up (of all aspects of the 2010 Act), around £45,000 relates to the first year of an AR scheme, and around £57,000 to the first year of an LP scheme.
- The SLCC must balance avoiding creating a barrier to entry for a new regulator, and to new business models, with the need to recoup costs already outlaid over the last eight years, costs of operation, and ensure no impact on the current levies on solicitors, advocates, and commercial attorneys.

## AR complaints scheme

- The AR complaint is an entirely new form of complaint, looking not at a firm or lawyer but at the operation of a regulator. Issues could be wide ranging, from legal, governance, and financial matters to how they have assessed regulatory principles in the legislation such as 'promoting competition in the provision of legal services' and 'promoting access to justice'. Depending on the complaint the regulator may be likely to robustly defend a complaint, using expert legal and other advisers. The role of the SLCC, and the staff and advice needed, will be very different to investigating complaints against an individual lawyer.
- Passing on full costs immediately is likely to create a barrier to entry, and the SLCC accepts it is not entirely predictable whether complaints will be received (although enquiries as to making this type of complaint have already been made by the public and by lawyers). The SLCC has therefore heavily discounted these cost estimates recognising that it can recover from the AR in future years if costs are greater than collected in Year 1 (and equally, discount the levy if they are greater).

- **The suggested Approved Regulator Fee is £20,000**, we anticipate collecting this. This may change significantly in future years.
- **The suggested Approved Regulator Complaints Levy (for an upheld complaint) is £10,000**. This may change significantly in future years.

## LP complaints scheme

- Complaints about LPs are more similar to the type of complaint the SLCC already handles, although new systems and templates are required, and new legal issues will arise.
- In discussion with the Law Society of Scotland it is considered unlikely any LPs will be fully licensed by July 2018, when the first levy will be collected. As a consequence, no fees may be collected in year one.
- An LP may have a single lawyer providing legal services within it, but may have tens or hundreds of other professionals and/or advisers working within it. At the time of the budget consultation being drafted we have no information from the Law Society of Scotland on the likely size or model of new LPs. We are concerned no advertising campaign, or major engagement work with possible new entrants to the market, currently appears to be planned to quickly build the number of LPs contributing to the costs of this regulatory scheme, and the market may remain small for three to five years.

- **The suggested Licensed Provider Fee is £5,000**. It is unlikely any income will be received from this source in year one. This may change significantly in future years.



## 12 Issues we would especially value feedback on

- We value feedback on all aspects of this consultation.
- **Section 10** - In all responses to the January 2017 consultation the issue of how the budget was apportioned between different groups was raised. The SLCC is seeking the views of professional bodies, individual lawyers, interest groups, and consumers on apportionment this year. There are three options as to how the increase in cost could be reflected across the general levy:
  - An equal rise for all lawyers (8.5% for all)
  - No increase for advocates, but increase for all solicitors (8.7% for solicitors) – very few complaints are received about advocates, there has been no significant increase in complaints, there has been no litigation from the Faculty of Advocates adding to our cost base.
  - Only increase the fee for private practice solicitors (no rise for in-house solicitors, advocates or commercial attorneys) (10% for private practice solicitors only). This reflects that as well as advocates being a low source of complaint, so too are in-house lawyers, and likewise no data suggests complaints from this area are increasing. All complaints which have been the subject of the rise in litigation also related to private practice lawyers.
- **Section 12** – we would value comments on the budgeting assumptions for new duties under the Legal Services (Scotland) Act 2010 and on the levies set.
- Those providing comments may wish to share views on the individual projects and work laid out in the Operating Plan.
- Your views on why complaints are rising, and ways to tackle the causes of common complaints to help consumers and reduce complaints costs for the profession would be valued.
- We would also appreciate feedback on further specific efficiency savings which those responding may be able to identify – this might be an idea for improving the complaints process or any other aspect of our work.

## Appendix 1: Draft Operating Plan – 2018/19

STATUTORY DUTIES					
Provide a gateway for all complaints about lawyers in Scotland (s2 to s19) <ul style="list-style-type: none"> <li>➤ Manage service complaints directly – providing redress where appropriate</li> <li>➤ Refer conduct complaints to the ‘relevant professional body’</li> </ul> Give advice on complaints to all parties (s34)	BUILD TRUST	PROMOTE STRONG RELATIONSHIPS	DELIVER EARLY RESOLUTION & REDRESS	DRIVE IMPROVEMENT	DEVELOP HIGH PERFORMANCE
<p><b>1. PRIORITY OBJECTIVE: We will improve the efficiency and effectiveness of the complaints process where it is within our control:</b></p> <p><b>Over the last two years we have:</b> carried out a review of each stage of our process, amended various aspects of our approach in summarising the issues in a complaint; created a ‘predictive model’ to track and predict complaint handling rates and work in progress levels; piloted three different approaches to the ‘eligibility’ stage of our process to see if they offered greater efficiency; trained a team of staff in the Lean Six Sigma performance improvement methodology (to yellow-belt standard, this is a tool which focusses on reducing waste and increasing productivity and quality); and reviewed our approach to the complaints levy to encourage mutually agreed settlements in appropriate cases, while continuing evolution of our ‘polluter pays’ approach. We have changed how we report management information data to the Board to achieve a greater focus on outputs and production of reports.</p> <p><b>This year we propose to:</b></p> <ol style="list-style-type: none"> <li>1. Continue to evolve our predictive model, allowing us to plan resource and costs more effectively.</li> <li>2. Deliver a session where our independent statistician briefs our board directly on efficiency pilots and predictive work.</li> <li>3. Fully evaluate the splitting eligibility pilot and decide if and how this should be implemented further. Update Board on efficiency pilots run to date and future options.</li> <li>4. Continue to develop our triage system, in particular whether a statistically reliable assessment can be made on the required level of investigation and/or outcome at eligibility.</li> <li>5. Assess Journey Times for complaints by practice area, main nature of complaints, and other available factors.</li> <li>6. Explore the role time-recording could play in process efficiency or delivering higher production, working with our external process improvement adviser.</li> <li>7. Continue to monitor and if necessary revise production targets for CIs – reporting production level to Board in each set of management information figures, and every six months reporting performance review data.</li> <li>8. Review the templates (house styles) for eligibility, investigation and determination reports and ensure that all are fit for purpose in achieving early resolution and robust decisions – involve Consumer Panel and our legal providers.</li> <li>9. Review our process and guidance for preparing Summaries of Complaints.</li> </ol>	✓		✓	✓	✓

**2. PRIORITY OBJECTIVE: We will aim to ensure that all consumers of legal services know the SLCC exists and how we can help - this is vital in successfully delivering our function as the single gateway for all complaints about lawyers:**

**Over the last two years we have:** assessed public awareness and considered groups that had lower awareness of our service, and developed a targeted awareness raising plan up to 2020. We have increased our editorial coverage and publication of materials for consumers and the profession (with a particular focus on 'Plain English'). We reviewed data on how complainers heard about us, and noted that web searching and referrals from bodies such as the Law Society of Scotland and Citizens Advice were the most common ways: referrals by the lawyers offering the original service was one of the least common ways.

**This year we propose to focus on increasing our digital presence, including:**

1. Production of at least 2 further videos for our website – topics to be decided.
2. Development of video clips and quarterly blogs to raise the profile of our Board members.
3. Develop a training page for the website.
4. Create 2 podcasts and/or video training sessions aimed at lawyers.
5. Improve our search engine optimisation.
6. Upskill our staff on digital media relevance and use.
7. Increase our Social media follower rate.

**We also propose to build on our existing editorial coverage by:**

8. Specifically targeting women (2 editorials/ advertorials in publications with a female audience)
9. Specifically targeting C2DE socio economic groups (2 editorials/ advertorials in publications with a primarily C2DE audience).
10. 2 editorials per quarter aimed at consumers generally.
11. 2 editorials per quarter aimed at lawyers generally.
12. We will work to raise the profile of our Board members, and increase their visibility to stakeholders.



BUILD TRUST



PROMOTE STRONG RELATIONSHIPS



DELIVER EARLY RESOLUTION & REDRESS

DRIVE IMPROVEMENT

DEVELOP HIGH PERFORMANCE

<p><b>3. PRIORITY OBJECTIVE: We will promote legislative changes which will assist in further improving the efficiency and effectiveness of the complaints process:</b></p> <p><b>Over the last two years we have:</b> developed and published a paper on legislative reform (<i>#ReimagineRegulation</i>), and hosted discussions on what that legislative change might look like. This was one driver of an independent review of the regulation of legal services being announced, which is now underway and which the SLCC are actively participating in.</p> <p><b>This year we propose to:</b></p> <ol style="list-style-type: none"> <li>1. Consider and respond to the outcome of the independent review, expected in July 2018 – making clear what we support and areas we think need further consideration.</li> <li>2. Engage with our Consumer Panel and consumer groups on their expectations of effective complaint handling within a reformed system.</li> <li>3. Start developing our position on how policy recommendations could be converted into draft legislation ensuring an agile and proportionate system.</li> <li>4. Further develop our MSP newsletter – providing new content which assists MSPs to support their constituents and informs the debate about legislative change.</li> <li>5. Meet justice and consumer spokespeople across all parties to discuss the potential for changes.</li> <li>6. Ensure that the issue of ensuring redress is awarded, and issues around taxation of fees, remain a priority for reform.</li> </ol>	BUILD TRUST	✓ PROMOTE STRONG RELATIONSHIPS	✓ DELIVER EARLY RESOLUTION & REDRESS	✓ DRIVE IMPROVEMENT	✓ DEVELOP HIGH PERFORMANCE
<p><b>4. We will ensure we are prepared to deliver our new statutory functions in relation to ‘Alternative Business Structures’ in Scotland, if the Scottish Government authorises an ‘Approved Regulator’:</b></p> <p><b>Over the last two years we have:</b> carried out training on the Legal Services (Scotland) Act 2010 with the Board and staff, reviewed cost implications and issues which the SLCC would need to address, liaised with government on a wide range of issues around implementation, and created a basic process map. In the latter half of our 2017/18 year we expect to have consulted on and finalised a budget, have a final process in place, and have consumer information published on our website.</p> <p><b>On the basis that a new Approved Regulator will have been authorised in 2018, we propose to:</b></p> <ol style="list-style-type: none"> <li>1. Review our policies and processes in light of early experience.</li> <li>2. Continue to monitor the impact of new complaints received under the scheme.</li> <li>3. Review and update information on our website for lawyers and the public in relation to the scheme.</li> <li>4. If complaint numbers allow, undertake an analysis of complaints received to identify any differences in consumer expectations or issues being complained about.</li> </ol>			✓		✓

<p><b>5. We will create and implement an independent system of quality assurance:</b></p> <p><b><i>This year we propose to:</i></b></p> <ol style="list-style-type: none"> <li>1. Use our Oversight ‘handling’ expertise to develop and implement an internal review mechanism to quality assure objectively our own complaints handling.</li> <li>2. Linked to this, we will develop a system to ensure that complaints about our own service levels are reviewed objectively.</li> <li>3. Develop a process for effective feedback to our Operations staff to ensure that learnings are captured and acted upon.</li> </ol>	BUILD TRUST	PROMOTE STRONG RELATIONSHIPS	DELIVER EARLY RESOLUTION & REDRESS	DRIVE IMPROVEMENT	DEVELOP HIGH PERFORMANCE ✓
<p><b>Ensure conduct complaints are properly dealt with by the ‘relevant professional bodies’ through handling complaints and oversight of their process (s23-25, s35 &amp; 36)</b></p>					
<p><b>6. Identify any new learning from the statutory extension allowing practitioners (not just complainers) to raise handling complaints:</b></p> <p><b><i>Over the last two years:</i></b> we had not received any handling complaints from practitioners, but this was expected due to the implementation date of potential complaints.</p> <p><b><i>This year we propose to:</i></b></p> <ol style="list-style-type: none"> <li>1. Undertake a review of any handling cases raised by practitioners and identify trends or learning.</li> </ol>				✓	✓
<p><b>7. Audit the implementation of previous recommendations to the Faculty of Advocates on their complaint handling process:</b></p> <p><b><i>Last year we:</i></b> carried out a Benchmarking Report on the Faculty of Advocates. We valued the positive engagement of the Faculty throughout the process, and in their response to the final report. In that report on that we said that if we didn’t carry out a further audit of FA in the operational year 17/18 (which we did not do), it would be undertaken in 18/19.</p> <p><b><i>This year we propose to:</i></b></p> <ol style="list-style-type: none"> <li>1. We will carry out an audit this year to ensure that all recommendations that we have previously made have been implemented.</li> </ol>		✓		✓	

Issue guidance and encourage best practice (s40)					
<p><b>8. We will actively engage with professionals to provide relevant training which promotes best practice in complaint handling:</b></p> <p><b>Over the last two years we have:</b> continued to provide CPD training to groups of solicitors, advocates and their support staff as well as training to diploma students and Faculty Devils. We developed new materials and presentations, and worked to incorporate more data, and more case studies, to help tackle common causes of complaints.</p> <p><b>This year we propose to:</b></p> <ol style="list-style-type: none"> <li>1. Continue to produce outreach and training in best practice complaint handling which better meets the changing needs and preferences of the profession.</li> <li>2. Explore options to develop online training in complaint handling best practice for practitioners.</li> <li>3. Continue to explore cost-efficient opportunities to provide training jointly with other organisations.</li> </ol>	✓ BUILD TRUST	✓ PROMOTE STRONG RELATIONSHIPS	✓ DELIVER EARLY RESOLUTION & REDRESS	✓ DRIVE IMPROVEMENT	✓ DEVELOP HIGH PERFORMANCE
<p><b>9. We will improve our website, which is our most cost effective, and most transparent, communication tool to ensure it is easily used by all users, especially those on mobile ‘phones or tablets, and those with visual impairments:</b></p> <p><b>Over the last two year we:</b> surveyed website users, gained input from stakeholders, reviewed best practice on accessibility, and scoped the required work on our website. We then tendered the work, and in the second half of our 2017/18 year will start generating new content, with a focus on accessibility and plain English, and migrating data.</p> <p><b>This year we propose to:</b></p> <ol style="list-style-type: none"> <li>1. Complete the migration of data and population of new content on our website.</li> <li>2. Test internally and gather feedback on our new website.</li> <li>3. Re-test compliance with the Scottish Government’s Digital First Standard for digital public services and the WAI AA access standard.</li> <li>4. Ensure web content complies with Plain English guidelines.</li> <li>5. Undertake user access testing (making sure that a variety of users, with different needs, can easily access our website)Approve and launch the new website.</li> </ol>	✓				✓



<p><b>10. We will actively publish information to assist lawyers in complaint handling:</b></p> <p><i>Over the last two years we:</i> developed our new quarterly CRM newsletter, published guidance to assist new lawyers and CRMs with issues around complaints, and refreshed and reissued our section 40 guidance in relation to complaint prevention and best practice complaint handling at 1<sup>st</sup> tier.</p> <p><i>This year we propose to:</i></p> <ol style="list-style-type: none"> <li>Continue to publish our CRM newsletter and issue at least four quarterly editions a year.</li> <li>Where relevant, update and publish further s.40 guidance to assist the promotion of best practice in complaint handling.</li> <li>If the LSS Rules are changed (following their recent consultation), scope and carry out an initial assessment of 1<sup>st</sup> tier complaints records.</li> <li>Publish a report as a result of the above.</li> </ol>	BUILD TRUST	✓ PROMOTE STRONG RELATIONSHIPS	✓ DELIVER EARLY RESOLUTION & REDRESS	✓ DRIVE IMPROVEMENT	✓ DEVELOP HIGH PERFORMANCE
<b>Monitor practice and publish trend reports – to help ensure the sector learns from complaints made (s35 &amp; s36)</b>					
<p><b>11. We will continue to publish information in relation to complaints to inform the profession, and consumers:</b></p> <p><i>Over the last two years we:</i> developed the information published on upheld complaints, provided trends information in our new CRM newsletter, and published guidance aimed to assist newly-qualified solicitors.</p> <p><i>This year we propose to:</i></p> <ol style="list-style-type: none"> <li>Review the scope of publishable decisions on our website.</li> <li>Continue to provide informed trends-based commentary on complaints outcomes.</li> </ol>	✓			✓	✓
<b>Monitor the effectiveness of the various indemnity arrangements in the sector (s39)</b>					
<p><b>12. We will build on work over the last two years to consider how we exercise our oversight function in relation to the Client Protection Fund (formerly the Guarantee Fund) and the Master Policy:</b></p> <p><i>Over the last two years we:</i> scoped options for dispensing this statutory duty and engaged with key stakeholders on how we might deliver our statutory oversight function in this area. In December 2017 we agreed a Memorandum of Understanding (MoU) with the LSS which will allow the sharing of information relating to both the CPF and MP.</p> <p><i>This year we propose to:</i></p> <ol style="list-style-type: none"> <li>Review the information provided to us under the MoU and, in the second half of the year, scope and undertake a project based on the data provided.</li> </ol>		✓	✓	✓	

Support, and be guided by, our independent Consumer Panel (Schedule 1, 11A)					
<p><b>13. We will provide support to the independent Consumer Panel as it works to add value to the sector by exploring the experience of consumers:</b></p> <p><b>Over the last two years <u>the Panel</u>:</b> supported the SLCC’s work on legislative change; examined the demographics of those who use the SLCC’s service and published information; considered the needs of vulnerable users; reviewed templates and correspondence as part of our Plain English work; replied to consultations on our strategy and on a proposed ‘Approved Regulator’ scheme; published information and hosted a round table on how the Consumer Principles apply to legal services and regulation.</p> <p><b>This year <u>the Panel</u> proposes to:</b></p> <ol style="list-style-type: none"> <li>1. Provide further input to any proposals for legislative change.</li> <li>2. Produce a further demographics tracker and report on three-year findings.</li> <li>3. Host a further round table event on issues relevant to legal consumers.</li> <li>4. Work with the SLCC to research accessibility, and reduce barriers, for legal complainers.</li> </ol>	✓ BUILD TRUST	✓ PROMOTE STRONG RELATIONSHIPS	✓ DELIVER EARLY RESOLUTION & REDRESS	✓ DRIVE IMPROVEMENT	DEVELOP HIGH PERFORMANCE
Improvements, efficiency and best value to ensure a high performing organisation					
<p><b>14. We will finalise our review of major long-term contracts as part of our work on ‘best value’:</b></p> <p><b>Over the last two years we:</b> reviewed all our major contractual commitments, setting out potential review dates and identifying priorities for consideration around a mandatory review date, and/or potential to increase our efficiency, and/or potential to increase our effectiveness. We also undertook a property search as part of our lease review, and initiated a review of our legal services tender panel.</p> <p><b>This year we propose to:</b></p> <ol style="list-style-type: none"> <li>1. Finalise arrangements for, and transition to our new legal services panel, and monitor the first year of work.</li> <li>2. Develop a specification of our IT (software and hardware) needs over the next three to five years, with a view to costing, considering tender approach, and considering phasing of work.</li> </ol>					✓

**15. We will deliver a range of projects focussed on ensuring we can attract and retain high quality staff, and support their development to deal with the complexity and volume of caseload we require:**

**Over the last two years we:** completed a staff survey to canvass feedback, restructured our HR function, deployed an online HR management system, and worked with our staff representatives to update our employee handbook. In light of feedback we are increasingly using coaching to support and develop staff, and have done work focussed on recognising good work. For staff training we focussed on updates across a range of legal practice areas to support their core complaints investigation function, as well as developing team working, clearer communication and resolution-focussed skills, along with wider management development. We have also reviewed our reward and benefits approach against comparators and reviewed our approach to recruitment and selection

**This year we propose to:**

1. Start to implement recommendations coming out of our review of rewards and benefits.
2. Review and amend our approach to performance appraisal.
3. Consider a secondments policy and identify opportunities – both to allow colleagues external development and to gain external insight into those coming into our organisation.
4. Assess the opportunity to offer a modern apprenticeship
5. Seek staff input on the annual training plan, and deliver a range of legal updates and customer focussed skills.
6. Scope potential for staff survey that would let us externally benchmark our performance against other organisations.
7. Actively take part in national mindfulness and mental health awareness weeks.
8. Review job descriptions and our grade specific competencies to better align to our strategy.

BUILD TRUST	PROMOTE STRONG RELATIONSHIPS	DELIVER EARLY RESOLUTION & REDRESS	✓ DRIVE IMPROVEMENT	✓ DEVELOP HIGH PERFORMANCE
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**16. We will implement key projects from our review or Knowledge Management, and deliver a training plan for our Commissioners, focussed on ensuring efficient working, effective sharing of knowledge, and robust decision making:**

**Over the last two years we have:** run training for Commissioners which included ‘unconscious bias’, Board competencies, reasoned decision making, training on holding an oral hearing, risk management, briefings on ABS, and lessons learned from appeals. We undertook a full review of our internal knowledge management (KM), and external best practice, and prioritised work (incorporating our existing work stream on ‘consistent decision making’ into the wider KM work). We created a ‘single toolkit’ of knowledge sources and a skills map for commissioners. We successfully completed induction for nine Board members, in three phases – a complete refresh of our Board. We prepared for the new GDPR (General Data Protection Regulations).

**This year we propose to:**




1. Offer a programme of 6 x Commissioner development sessions on topics relating to the delivery of statutory functions to a high standard.
2. As one of the development sessions, pilot a ‘case review’ session on a complex case to ensure learning is maximised.
3. Finalise the system of case summaries in NewPro (our case management system) to aid consistent decision making.

BUILD TRUST	PROMOTE STRONG RELATIONSHIPS	DELIVER EARLY RESOLUTION & REDRESS	✓ DRIVE IMPROVEMENT	✓ DEVELOP HIGH PERFORMANCE
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<p><b>17. We will mark the 10th anniversary of the SLCC (Oct 2018) we propose to:</b></p> <p><b><i>This year we propose to:</i></b></p> <ol style="list-style-type: none"> <li>1. Undertake an analysis of service, conduct, and handling complaint trends across that period – using this data as a centre piece of anniversary communications (social media, CRM newsletter, special articles).</li> <li>2. Where possible, benchmark against data from other jurisdictions and our own 5-year trends report published in 2013.</li> <li>3. Publish a report on the above.</li> <li>4. Undertake a stakeholder review of our perceived presence, performance and effectiveness.</li> <li>5. Consider the opportunity for an appropriate stakeholder engagement event or roundtable discussion based on the above data.</li> <li>6. Consider the use of infographics or video to bring alive the performance of the SLCC, for the sector and consumers, over the last ten years.</li> </ol>	✓				✓
<p><b>18. We will finalise lease negotiations at the Stamp Office <u>or</u> plan and deliver an office move and kit-out</b></p> <p>A proposal has now been made to Scottish Ministers on the future property arrangements for the SLCC. The preferred option delivers an annual saving of over £16,000 in each of the next five years (from Sept 18). The reserve option would increase costs by around £107,000 per year, although the biggest impact would be the significant up-front costs would be (dilapidations, move costs, etc.) which are not part of this consultation budget, but would need added to a final budget in April.</p> <p>Depending on the decision by Scottish Ministers, there are two different project options:</p> <ol style="list-style-type: none"> <li>1. Recommended option – small project to finalise and sign lease and pay stamp duty (£11,000 cost, 3 person days)</li> <li>2. Reserve option – major project to tender works, organise move, deliver office kit-out, etc. (£817,000 cost, 100 person days).</li> </ol>					✓
<p><b>19. We will continue to improve our records management and information security</b></p> <p><b><i>Over the last two years we have:</i></b> implemented our project plan to ensure compliance with the new GDPR and submitted our Records Management Plan to the National Records of Scotland to meet our new statutory duties. We also carried out an IT security internal audit and started work towards the Cyber Essentials Accreditation.</p> <p><b><i>This year we propose to:</i></b></p> <ol style="list-style-type: none"> <li>1. During the first 12 months of the new GDPR we will monitor our new processes and privacy statements and ensure we have fully complied with all aspects of the new regulations.</li> <li>2. We will fully implement the ‘file manager’ functionality of our cases management system to assist with archiving and record deletion.</li> <li>3. We will ensure accreditation against the Cyber Essentials standard is completed.</li> <li>4. We will carry out further training of our staff and Board on Cyber Security.</li> <li>5. We shall meet our commitments under ‘Safe, Secure And Prosperous: A Cyber Resilience Strategy for Scotland – Action Plan 2017-18’.</li> </ol>	BUILD TRUST	PROMOTE STRONG RELATIONSHIPS	DELIVER EARLY RESOLUTION & REDRESS	DRIVE IMPROVEMENT	✓ DEVELOP HIGH PERFORMANCE

# Appendix 2: Draft Budget – 2018/19

## Summary Budget

SLCC		scottish legal complaints commission <b>slcc</b>	
<b>Summary Draft Budget</b>			
1 July 2018 to 30 June 2019			
<b>Expenditure</b>		<b>£</b>	
Staff		2,590,775	
Non Staff		801,200	
<b>Total</b>		<b>3,391,975</b>	
			
<b>Actual Income and Levy</b>			
			
<b>Actual income including contribution to reserves</b>		<b>£</b>	
Levy from Law Society		-3,245,490	
Levy from Faculty of Advocates		-79,971	
Levy from Assoc of Commercial Attorneys		-738	
Contribution from Complaint Levy		-25,000	
Approved Regulator Levy		-20,000	
Licensed Service Provider Levy		-5,000	
Estimate of Interest Earned		-30,000	
<b>Total</b>		<b>-3,406,199</b>	
<b>Total Funds Available</b>		<b>-3,406,199</b>	
			
<b>Actual general levy set</b>		<b>£</b>	
Solicitors with 3+ years experience	386		
Conveyancing Practitioner or Executry Practitioner 3+ years exp	386		
Solicitors in 1st 3 years of practice	193		
Practising Outwith Scotland	126		
In-house Conveyancing Practitioner or Executry Practitioner	116		
In-house lawyers	116		
Advocates	183		
Assoc of Commercial Attorneys	123		
<b>Total actual levy required from each professional body</b>		<b>£</b>	
Law Society of Scotland		3,245,490	
Faculty of Advocates		79,971	
Association of Commercial Attorneys		738	
<b>Total</b>		<b>3,326,199</b>	


## Proposed Expenditure 2018/19

### Budget 1 July 2018 to 30 June 2019

Summary of Expenditure	Budget 2018/19	Budget 2017/18	Variance	Variance
	£	£	£	%
<b>Staff Remuneration and support costs</b>				
<b>Direct Staff costs</b>				
Staff salaries and NIC	2,398,975	2,176,000	-222,975	-10.2%
Member salaries and NIC	123,000	138,000	15,000	10.9%
	<b>2,521,975</b>	<b>2,314,000</b>	<b>-207,975</b>	<b>-9.0%</b>
<b>Indirect Staff Costs</b>				
Staff training and development	25,000	25,000	0	0.0%
Member training and development	5,000	9,000	4,000	44.4%
Staff travel & subsistence	4,500	5,500	1,000	18.2%
Member travel & subsistence	12,000	15,000	3,000	20.0%
Other staff costs	22,300	23,500	1,200	5.1%
	<b>68,800</b>	<b>78,000</b>	<b>9,200</b>	<b>11.8%</b>
<b>Total Staff Costs</b>	<b>2,590,775</b>	<b>2,392,000</b>	<b>-198,775</b>	<b>-8.3%</b>
<b>Non-staff costs</b>				
Property costs	328,500	319,500	-9,000	-2.8%
Insurance	8,500	8,500	0	0.0%
Office running costs	50,700	53,700	3,000	5.6%
Direct case costs	174,500	231,500	57,000	24.6%
Communications	30,500	34,500	4,000	11.6%
IT Costs	90,000	85,000	-5,000	-5.9%
Corporate legal costs	45,000	20,000	-25,000	-125.0%
Audit Fees	21,000	20,000	-1,000	-5.0%
Special projects and research	12,500	15,000	2,500	16.7%
Capital Asset Depreciation	40,000	44,000	4,000	9.1%
<b>Total Non-Staff Costs</b>	<b>801,200</b>	<b>831,700</b>	<b>30,500</b>	<b>3.7%</b>
<b>Total of staff and non staff running costs</b>	<b>3,391,975</b>	<b>3,223,700</b>	<b>-168,275</b>	<b>-5.2%</b>
<b>Total Costs</b>	<b>3,391,975</b>	<b>3,223,700</b>	<b>-168,275</b>	<b>-5.2%</b>



## General and Complaints Levy

2018/19 Proposed Annual Levy		scottish legal  complaints commission		
Category	Waiver	Practising Certificates	Annual Levy	Total Income
Solicitors with 3+ years experience	Annual Levy	6,721	386	2,594,306
Conveyancing Practitioner or Executry Practitioner 3+ years exp	Annual Levy	5	386	1,930
Solicitors in 1st 3 years of practice	Annual Levy less 50%	962	193	185,666
Conveyancing Practitioner or Executry Practitioner 1st 3 years of practice	Annual Levy less 50%	-	-	0
Practising Outwith Scotland	Discounted	852	126	107,352
In-house Conveyancing Practitioner or Executry Practitioner	Discounted	3	116	348
In-house lawyers	Discounted	3,068	116	355,888
Advocates	Discounted	437	183	79,971
Assoc of Commercial Attorneys	Discounted	6	123	738
		12,054		3,326,199

## Appendix 3: Indicative ABS costing (upper end)

### BUDGETING 'ASSUMPTIONS'

- The SLCC must secure income to cover the new statutory duties.
- The SLCC must seek to minimise cost, whilst meeting the requirements of the legislation.
- No funds from solicitors or advocates should be used for set-up or operation (an illegitimate use of funds / a subsidy to a new market).
- The legislation is predicated on the new market bearing the costs of regulation – the SLCC must follow this policy intent.
- Future market demand is uncertain.
- Funding must account for other uncertainty – limited data on market uptake, high risk of litigation on early cases, the need to avoid varying levies, etc.
- It is assumed that Licensed Providers licensed at any part of the financial year will pay the annual fee, and the RPO will collect this as part of the initial licensing process.
- A second approved regulator would bring some new set-up costs, as the complaints system run by the SLCC will be based on, and need to interact with, a new underlying Approved Regulator scheme. This will necessitate new legal advice, process adaptations, different template letters and consumer information etc.
- This model currently splits costs into three main areas:
  - Set up – incurred from now until April 2018
  - Approved Regulator (AR)
  - Licensed Providers (LP)
- At this point, the assumption is that Year 2 costs for ARs and LPs would be the same as Year 1
- These budgets represent realistic costs. The levies have been set based on these, but taken into account the need for reasonable fees to allow entry to this new market and until it grows to a sustainable level. A critical factor will be how the Approved Regulator seeks to promote the opportunities of ABS, encourage new firms to enter the market, and to build a sustainable market.

### SET-UP COSTS

<b>Legal advice</b>	<ul style="list-style-type: none"> <li>▪ Advice on the process for each of four new types of complaint</li> <li>▪ Advice on the creation of an entirely new scheme for AR complaints</li> <li>▪ Rules Drafting</li> <li>▪ Advice on corporate matters – levy arrangements, regulations consultation, Data Protection/GDPR, FOI</li> </ul>	£22,000
<b>Reserves</b>	<ul style="list-style-type: none"> <li>▪ To start developing reserves – to withstand litigation from an Approved Regulator, Licensed Provider, or Complainers. To avoid sudden Year 2 or Year 3 rise, to allow for stable levy, to reduce risk to reserves generated from solicitors'/advocates' fees</li> </ul>	£10,000
<b>IT</b>	<ul style="list-style-type: none"> <li>▪ Minimal changes to cases management system, automated templates &amp; management information reporting</li> <li>▪ Creation of online complaints forms for complaints</li> </ul>	£4,250
<b>Staff costs</b>	<ul style="list-style-type: none"> <li>▪ 130 person days – ranging from admin to senior management + Commissioners</li> <li>▪ Policy development, creation of processes, template letters, consumer information, website contents negotiation with RPOs, negotiation with Scot. Gov., staff training, Commissioner training, etc</li> </ul>	£21,844
		<b>£58,094</b>

### APPROVED REGULATOR COSTS (Year 1, same in Year 2)

<b>0.5% pro rata share of overhead</b>	<ul style="list-style-type: none"> <li>▪ Rent, building services, etc.</li> <li>▪ IT, printing, copying, mail and web</li> <li>▪ Central services (HR, finance)</li> <li>▪ Insurances</li> <li>▪ Internal Audit / Audit Scotland</li> <li>▪ <i>Failure to collect means solicitors/advocates subsidising the new market</i></li> </ul>	£5,061
<b>DP / FOI requests</b>	<ul style="list-style-type: none"> <li>▪ We are likely to have case specific DP and FOI requests which need to be budgeted for</li> </ul>	£1,000
<b>Complaints</b>	<ul style="list-style-type: none"> <li>▪ Estimating 2 complaints per year</li> <li>▪ Minimum 20 hours staff time per complaint (CI/grade 4)</li> </ul>	£6,760
<b>Legal advice</b>	<ul style="list-style-type: none"> <li>▪ Legal advice on complaints received (new system, likely to require advice)</li> </ul>	£2,000
<b>Appeals</b>	<ul style="list-style-type: none"> <li>▪ 1 x Appeal by Approved Regulator of process of outcomes</li> </ul>	£30,000
		<b>£44,821</b>

### Licensed Providers (Year 1, same in Year 2)

<b>0.5% pro rata share of overhead</b>	<ul style="list-style-type: none"> <li>▪ Rent, building services, etc.</li> <li>▪ IT, printing, copying, mail and web</li> <li>▪ Central services (HR, finance)</li> <li>▪ Insurances</li> <li>▪ Internal Audit / Audit Scotland</li> <li>▪ <i>Failure to collect means solicitors/advocates subsidising the new market</i></li> </ul>	£5,061
<b>DP / FOI requests</b>	<ul style="list-style-type: none"> <li>▪ We are likely to have case specific DP and FOI requests which need to be budgeted for</li> </ul>	£1,000
<b>Complaints</b>	<ul style="list-style-type: none"> <li>▪ Estimating 10 firms licensed</li> <li>▪ We are estimating 5 complaints</li> <li>▪ Minimum 20 hours staff time per complaint (CI/grade 4)</li> </ul>	£16,900
<b>Legal advice</b>	<ul style="list-style-type: none"> <li>▪ Legal advice on complaints received (new system, likely to require advice)</li> </ul>	£4,000
<b>Appeals</b>	<ul style="list-style-type: none"> <li>▪ 1 x Appeal by complainer or LP</li> </ul>	£30,000
		<b>£56,961</b>

\* At 10 x LP this would be £5,000 per LP

\*\* If no appeals materialise money moves to reserves / discount on future fees, but current environment suggests a high likelihood of appeals.

## Appendix 4: Acronyms and terms

Acronym / term	Meaning
<b>1<sup>st</sup> tier complaints</b>	When a law firm or advocate/advocate's clerk manages the initial complaint about a lawyer. Usually a consumer must first complain to that lawyer, before they can come to us.
<b>2<sup>nd</sup> tier complaints</b>	When a complaint comes to us, generally after having given the lawyer and/or firm the opportunity to consider the complaint first.
<b>AR</b>	Approved Regulator, regulatory body created by the Legal Services (Scotland) Act 2010.
<b>CPD</b>	Continuing Professional Development – the ongoing training many professionals are required to undertake as part of their right to practice.
<b>FoA</b>	Faculty of Advocates – the professional body for advocates and one of the 'Relevant Professional Organisations' in terms of our statute.
<b>HR</b>	Human Resources.
<b>LSS</b>	Law Society of Scotland – the professional body for solicitors and one of the 'Relevant Professional Organisations' in terms of our statute.
<b>Our statute/ the Act</b>	The Legal Profession and Legal Aid (Scotland) Act 2007.
<b>Reporters</b>	A reporter is an independent individual who assists in undertaking an investigation and writing an investigation report.
<b>RPO</b>	A 'Relevant Professional Organisation' in terms of our statute.
<b>SLCC</b>	Our own organisation, the Scottish Legal Complaints Commission.
<b>SSDT</b>	The Scottish Solicitors' Discipline Tribunal. This is the independent tribunal at which the LSS prosecutes solicitors for professional misconduct.