



Neil Stevenson
Chief Executive
Scottish Legal Complaints Commission
The Stamp Office
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Dear Neil,

SCOTTISH LEGAL COMPLAINTS COMMISSION – DRAFT BUDGET AND OPERATING PLAN 2021/22

Thank you for providing us with your draft budget and operating plan for 2021/22.

We believe the SLCC's proposed budget fails to respond to the unprecedented challenge of COVID-19 and the impact it continues to have on the legal sector. The budget means the SLCC will be costing more for doing less; with the general levy higher than three years ago, despite fewer complaints being received. This rising inefficiency would be unacceptable at any time. However, in these difficult and challenging times, it is an issue which the SLCC must now address with urgency.

The first stated aim of the proposed operating plan is 'responding to the impact of COVID-19 on clients and the sector'. We welcome this as the legal sector continues to face substantial pressures, including a major decline in court business, fragility in the housing market and real uncertainty over the wider economic recovery. However, the budget fails to follow through on the SLCC's aim.

As you will know, the Law Society stepped forward last year with an unprecedented £2.2 million package of support in response to the COVID pandemic. This included a 20% cut in both the practising certificate fee and accounts fee. It also allowed for a nil client protection fund fee for the operating year. Taken together, this saved law firms thousands of pounds at a time when it was needed the most.

While the SLCC did offer some flexibility in the timing of the payment of the 2020/21 levy money, its response to the pandemic was to pursue its above inflation increase in the amount charged via the main general levy. It was regrettable that, at a time when the profession was in need of any and all help, the SLCC's response was to increase costs for firms even more across the operating year.



We believe there was an important opportunity for the SLCC to correct this misjudgement by coming forward in 2021 with a significant reduction in the levy. This would have showed understanding for the financial fragility which many firms and organisations still face.

However, the SLCC has chosen instead to come forward with a cash freeze in the levy, a proposal which fails to adequately respond to the financial and economic pressures facing the sector. Indeed, we find it odd that, in a year where the SLCC proposes a reduction in its budget, a corresponding reduction in the levy is not passed on to the profession.

The SLCC's proposed freeze in the general levy needs to be seen in the context of five successive annual increases between 2016 and 2021. It means the levy will be 58% greater in cash terms compared to 2015. Even taking inflation into account, the levy will be 39% greater in real terms when compared to six years ago. This dramatic rise in costs is clear to see in the graph included as an appendix to this letter.

We are also concerned that these substantial increases in costs are coming despite numbers of complaints being virtually identical to that seen 10 years ago. The following table uses data from SLCC annual reports and annual accounts.

Year	New complaints received	Total SLCC operating expenditure (000s)	Cost per new complaint
2008-2009	1,217	£1,574	£1,293
2009-2010	1,452	£2,099	£1,446
2010-2011	1,090	£2,408	£2,209
2011-2012	1,264	£2,645	£2,093
2012-2013	1,123	£2,958	£2,634
2013-2014	1,024	£2,757	£2,692
2014-2015	1,009	£2,780	£2,755
2015-2016	1,132	£2,818	£2,489
2016-2017	1,155	£2,965	£2,567
2017-2018	1,227	£3,167	£2,581
2018-2019	1,326	£3,575	£2,696
2019-2020	1,036	£3,798	£3,666
2020-2021	1,100 expected	£3,993	£3,630
2021-2022	1,200 forecast	£3,958	£3,298

Critically, these figures show that whilst complaints numbers are forecast to be less than when the SLCC was formed, expenditure is expected to be more than double that seen in 2008/9.



These figures become even more stark on a per case basis. The proposed budget for 2021/22 suggest a per complaint case cost of almost £3,300. This compares to £2,500 in the period five years ago; £2,000 in the period 10 years ago and just £1,300 in the SLCC's first operating year. This is a significantly worsening position in terms of the SLCC's management of its cost base and cannot be justified.

We believe that the current economic climate requires a fundamental change in attitude and approach from the SLCC. It is essential to return per case expenditure costs back to previous levels and to reduce the general levy accordingly.

We also believe the SLCC should show consistency in its own arguments. Rises in the levy significantly above the rate of inflation have been justified by the SLCC in previous years based on increases in complaints received. If that argument holds good when complaints are increasing, then it is equally valid as regards a reduction in the levy when they are in decline.

If approved, the proposed budget will mean the general levy will have increased by 27% since 2018/19 when complaints numbers have fallen by 10% in the same period. This is clearly unacceptable.

In addition to these general comments on the SLCC budget, we also wish to cover the following specific areas.

1. Impact of solicitor numbers and the Scottish Government pay policy

In paragraph 1.12 of the consultation document, the SLCC states it “anticipates slightly reduced income from the profession, based on our best assessment of lawyer numbers”. We have interpreted this as the SLCC forecasting a decline in the numbers of solicitors.

We recognise the uncertainty created by the pandemic and the doubt which remains over how the roll out of vaccinations, movement restrictions and the economic recovery will develop over the coming 12 months. We also agree that a cautious approach is needed to financial planning having adopted a careful and prudent approach on membership forecasts ourselves when it came to setting our own 2020/21 budget.

However, the latest figures show there are in fact more practising solicitors today compared to 12 months ago. There is mounting evidence that, even with the economic pressures, individuals are choosing to retain their professional qualification as a priority for them in their careers.

As such, we believe the SLCC should reconsider its budget and base it on at least a steady number of total lawyers rather than any decline. We have reviewed current membership numbers and believe this would likely generate almost £130,000. This is income which should be returned to the profession via a reduced general levy.



In section 1.8 of the consultation document, the SLCC explained how the Scottish Government draft budget and proposed public sector pay policy was at variance with the assumptions underpinning the draft SLCC budget. We note that an additional £153,747 has currently been budgeted to account for a new pay settlement and believe any available saving from the final Scottish Government pay policy for public bodies must also be used to reduce the general levy on the profession.

2. Approved regulator levy

Since 2018, the SLCC has charged the Law Society approved regulator fees of £31,000. This is over and above funding provided by the Scottish Government to ensure it is properly set up to act in accordance with the Legal Services (Scotland) Act 2010.

As you will know, the Law Society remains an approved regulator but is not yet authorised to accept licence applications or to regulate these new entities. This position is unchanged from last year. There is no credible justification for the SLCC to charge the Law Society a further levy over and above the significant charges made over the last three years. This is particularly true when we are prevented from having any licenced providers from which to recoup the costs. As such, the SLCC should reduce the approved regulator fee to zero.

3. The benefits of legislative reform

We have worked with the SLCC in developing a package of possible reforms to the complaints system which could be delivered through secondary legislation.

I know you share my frustration that various events outwith our organisations' control means this work has not progressed as quickly as we both would have liked. However, we saw a welcome step forward with the publication of the Scottish Government's recent consultation. We are keen to continue to work with you to ensure this remains a priority for Ministers following the Holyrood election.

Indeed, we are hopeful that the reforms themselves could be delivered early in the SLCC's operating year. It was not clear from the draft operating plan and budget documents how you would see these reforms affecting the efficiency of the SLCC in its complaints handling. This is obviously relevant to the budget as any improved efficiency offers the opportunity for cost reductions. It would be useful to see this covered in more detail in the final document.

4. Draft operating plan

Finally, we want to raise some additional specific points relating to the draft operating plan.

- Paragraph 6.6 makes mention of increased costs of mediation. We believe the final plan should address how the SLCC might seek to reduce that cost increase.
- In paragraph 6.16, SLCC says it wishes to improve the time taken to process a complaint. Mention is made of investment in technology to streamline processes



although this appears to be focused on upgrades and allowing for remote working. Although the plan also states that an updated QA Framework will be completed by the end of the year, we believe more specific details are needed in the plan on how the end-to-end processing of complaints will be made more efficient.

- We recognise the importance of the statutory oversight powers given to the SLCC. At this of all times, these powers need to be used sensibly and proportionately with a focus on the trends that will have the most impact in relation to improving quality and efficiency of complaints handling.
- We believe greater clarity is needed in the section relating to “Investigating Artificial Intelligence and Big Data”. It was not clear if the SLCC is proposing to use big data and AI in its investigation of complaints or whether this relates to how using AI in the profession impacts on service, or both.
- We welcome the proposal to move to a more cost-effective property model and look forward to this delivering a meaningful difference to total costs and levy charges.
- We urge the SLCC to include within its operating plan a commitment to work with the Law Society to agree a consistent approach to complaints data collection and reporting. We feel a trend analysis of complaints is made more difficult or sometimes simply impossible through inconsistency of reporting. The way that data is collected by the SLCC changes from year to year including ceasing to collect and share some data without prior consultation with other interested parties. Changes to data collection are compounded by changes in the format of the SLCC Annual Report from year to year. Improving the consistency of data collection and presentation would result in more accurate and transparent information about complaints trends.

We hope these points can be addressed when the SLCC finalises its budget and operating plan. In doing so, we believe the SLCC must answer some critical questions:

- A. How can the SLCC justify costing so much more when it expects to handle the same number of complaints as 10 years ago and fewer complaints than 2018/19?
- B. Will the SLCC use any savings arising from reforecasting, either because of solicitor numbers, changed public pay policy, or other issues, to reduce the general levy?
- C. How can the SLCC justify charging an additional approved regulator levy when it has already charged £31,000 and when there is no authorised regulatory scheme in operation for licenced legal service providers?



D. What savings will be achieved if the proposed complaints reforms are approved by the Scottish Parliament this year and will the SLCC commit to using that saving to deliver a reduced levy?

Yours sincerely

A handwritten signature in black ink that reads "Lorna B Jack".

Lorna Jack
Chief Executive



APPENDIX 1 – SLCC general levy by year 2015-2021

