

# AGENDA

BOARD MEETING TO BE HELD AT 1.30PM ON TUESDAY 7 MAY 2019 AT  
THISTLE HOUSE, EDINBURGH

Lunch 12.30 - 13.30

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|----|-------------------------------------|--|
| 1. | Welcome and apologies               |  |
| 2. | Declaration of interest             |  |
| 3. | Decisions on papers to be published |  |
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## Standing items

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|----|--|--------------|
| 4. | Review of minutes  |              |
|    | <ul style="list-style-type: none"> <li>• Draft minute of the Board meeting held on 25 March 2019</li> <li>• Minute of the Legal Services Cases Committee held on 21 January 2019</li> <li>• Draft minute of the Legal Services Cases Committee held on 1 April 2019</li> <li>• Draft minute of the Legal Assistance Policy Committee held on 1 April 2019</li> </ul> |              |
| 5. | Action points  |              |
| 6. | Chairman's report  | Oral         |
| 7. | Chief Executive's update   | SLAB/2019/15 |
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## Policy & Development

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|----|-------------------|--------------|
| 8. | Legal aid Review  | SLAB/2019/16 |
| 9. | Monitoring Report | SLAB/2019/17 |
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## Governance

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|-----|---|--------------|
| 10. | Equalities  | SLAB/2019/18 |
| 11. | Business Plan 2018-19   | SLAB/2019/19 |
| 12. | Business Plan 2019-20   | SLAB/2019/20 |
| 13. | 2018/19 Report on the Criminal Quality Assurance Scheme for Criminal Legal Assistance | SLAB/2019/21 |
| 14. | SNS Business case   | SLAB/2019/22 |
| 15. | Complaints  | SLAB/2019/23 |
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## Operations

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|-----|--------------------|--------------|
| 16. | Performance Report | SLAB/2019/24 |
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## Finance

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| 17. | Finance (Fund) report  | SLAB/2019/25 |
| 18. | Finance (Admin) report | SLAB/2019/26 |
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**For Information**

19.

Meetings with Outside Bodies

SLAB/2019/27

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**Conclusion**

20.

Dates of next meetings

- Board - 24 June 2019
- Policy Committee - 03 June 2019 (10.30am)
- Cases Committee - 10 June 2019 (11.00am)
- Audit Committee - 27 May 2019 (10.30am)

**THE SCOTTISH LEGAL AID BOARD  
MINUTE OF MEETING OF THE SCOTTISH LEGAL AID BOARD HELD AT 1.30 PM. ON  
TUESDAY 7 MAY 2019 AT THISTLE HOUSE, EDINBURGH**

Present: Ray MacFarlane, Chair  
Sheriff John Morris  
Raymond McMenamin  
Steve Humphreys  
Sarah O'Neill  
Marieke Dwarshuis  
Brian Baverstock  
Lesley Ward  
Rani Dhir  
Tim McKay

In attendance: Colin Lancaster, Chief Executive  
Graeme Hill, Director of Corporate Services and Accounts  
Marie-Louise Fox, Director of Operations  
Anne Dickson, Director of Strategic Development  
Andrew McIntosh, Corporate Support Manager  
John Osborne, Policy Projects Manager (Items 8, 9 and 10)  
Louise Baggott, Senior Equalities Officer (Item 10)  
Hazel Thoms, Policy and Development Manager (Item 14)  
Kingsley Thomas, Head of Criminal Legal Assistance (Item 13)  
Michelle Fegan, Corporate Governance and Policy Officer

**1. APOLOGIES FOR ABSENCE**

Paul Reid and David Sheldon QC.

**2. DECLARATIONS OF INTEREST**

No interests not previously registered in the Register of Board Members' Interests were declared.

**3. DECISIONS ON PAPERS TO BE PUBLISHED**

After discussion, it was **agreed** the decision to publish each paper would form part of the overall paper discussion.

**4. REVIEW OF MINUTES**

**DRAFT MINUTE OF BOARD MEETING HELD ON 25 MARCH 2019**

The draft minute of the Board meeting held on 25 March 2019 was **approved**.

**MINUTE OF THE LEGAL SERVICES CASES COMMITTEE HELD ON 01 APRIL 2019**

The draft minute of meeting of the Legal Assistance Policy Committee 01 April 2019 was **noted**.

## 5. ACTION POINTS

Members considered the open action points and noted that while an action may have been concluded since the last time the actions were considered, it would stay on the log until the Board had been updated and were content that it be closed.

## 6. CHAIRMAN'S REPORT

The Chair updated members on the earlier Section 31 Committee and that the Board members reviews were progressing.

## 7. CHIEF EXECUTIVE'S UPDATE

The Chief Executive reported on matters of interest since the previous meeting. Members were updated on the implementation of the 3% increase on all legal aid fees and the roll out of the new HR Oracle Cloud system.

Additional updates were provided on the current status of grants relating to the Clutha Fatal Accident Inquiry and recent media coverage.

After discussion, members **noted** the position.

## 8. LEGAL AID REVIEW UPDATE

Members were advised that Scottish Governments timetable for work on the Legal Aid Review had slipped. The expectation was for the consultation to now be published before parliament rises on 28 June and to close mid-September.

Members discussed what expectations were for a detailed response from SLAB and noted that staff working on the review to date had amassed large quantities of policy information that could prove useful in the response and provide Scottish Government with the level of policy detail that would be required for a future bill.

After discussion it was **agreed** a further paper would be presented at the Board meeting on 24 June setting out a timetable for engaging with the members on the consultation response.

**Action: AD**

## 9. MONITORING REPORT

Members were updated on the recent work identifying and monitoring the availability and accessibility of legal services in rural areas.

After discussion members acknowledged the need for qualitative analysis to achieve a richer picture of the issues identified in the report.

Members **approved** the paper for publication.

**Action: AD**

## 10. EQUALITIES UPDATE

Members were provided with an update on the recent equalities developments at SLAB. Members discussed the information presented on the gender pay gap at SLAB and noted that while SLAB had been taking action to deal with the gender pay gap this required a generational shift that would not be achieved overnight.

After discussion it was agreed that the paper held many positives and it should be considered for publication after matters concerning the EHRC had been considered by the LAPC and a policy position agreed.

**Action: AD**

**11. BUSINESS PLAN 2018-19 UPDATE**

Members considered the updates provided and **noted** the paper.

**12. BUSINESS PLAN 2019-20 UPDATE**

Members considered a paper following on from the update and discussion that took place on 25 March.

Members were advised of the initiatives that had been removed and received confirmation that while they were no longer on the Business Plan they remained possible projects within SLAB to be managed through departmental plans.

Members **approved** the Business Plan 2019-20

**13. CRIMINAL QUALITY ASSURANCE SCHEME FOR CRIMINAL LEGAL ASSISTANCE**

Members considered and **noted** the update on the Criminal Quality Assurance Scheme.

**14. SCOTTISH NATIONAL STANDARDS FOR INFORMATION AND ADVICE PROVIDERS  
BUSINESS CASE**

Members considered and **approved** the proposed business case.

**15. COMPLAINTS UPDATE**

Members were updated on the new recording system and the further work that would be required to continue to improve the recording and handling of complaints and future board reporting.

Members discussed and **noted** the paper.

**16. PERFORMANCE REPORT**

Members considered a paper reporting on operational performance as at 31 March 2019.

It was noted that this was the last report in this format and the new format would be available at future meetings.

Members were advised that solicitor micro-surveys had recommenced and were updated on the position of the Accounts Assessment Department and changes which would improve the pool of staff and skills between teams.

After discussion, members **noted** the position.

#### **17. FINANCE (FUND) REPORT**

Members were updated on the position of the Fund as at the end of the financial year and it was confirmed that a full reforecast would be provided at the next meeting.

Members discussed the movement of the Scottish Government budget for grant funding and noted that the forecast was larger than previous years due to Money Advice Service funding now being paid by Scottish Government.

Members **noted** the paper.

#### **18. FINANCE (ADMIN) REPORT**

Members considered and **noted** the current position on the administration budget.

#### **ITEM FOR INFORMATION**

Following conclusion of deliberations on the sustentative agenda items, members noted a paper circulated for information (Meetings with Outside Bodies).

DATE OF NEXT MEETING: Monday 24 June 2019

The meeting ended at 3.45pm

<b>Report to:</b>	The Board
<b>Meeting Date:</b>	07 May 2019
<b>Report Title</b>	Delivery against the Business Plan 2018-19
<b>Report Category</b>	For Discussion
<b>Issue status:</b>	Business from a project

<b>Written by:</b>	
<b>Director responsible:</b>	Director of Strategic Development
<b>Presented by:</b>	
<b>Contact details:</b>	

Delivery of Strategic Objectives	
Select the Strategic Objective(s) relevant to the issues	<ol style="list-style-type: none"> <li>1. to deliver improvements to legal aid processes that increase efficiency and improve the experience of system users and customers.</li> <li>2. To advise Scottish Ministers on strategic development of legal assistance and its contribution to Scotland in which rights are supported and disputes are resolved fairly and swiftly</li> <li>3. to ensure that our organisation has the culture and capability to be responsive to our customers, the justice system and developments in legal and advice sectors.</li> <li>4. to build and maintain effective and collaborative relationships with the legal and advice sector and our public sector partners as we seek to achieve our purpose and contribute to wider Scottish Government aims.</li> </ol>

Link to Board or Committee Remit
The Board has reserved authority to approve SLAB's annual business plan and is responsible for overseeing progress against its delivery.

Publication of the Paper
The Board has previously agreed that papers of this nature should be published as a matter of course.

Executive Summary
Progress against the annual business plan has been generally good in terms of initiatives that SLAB has full control over. Half of the projects have been completed with the remainder being longer term projects or delayed due to issues outwith our control.

In terms of our medium term internal improvement projects, key phases have been completed and outputs delivered that stand us in good stead for delivering the necessary progress against the final year of the Corporate Plan in 2019-20.

#### Previous Consideration

Meeting	Detail
Board - July 2018	The Board considered progress against the business plan as at June 2018.  Members noted the position.
Board - November 2018	The Board considered progress against the business plan as at October 2018.  Members noted the position.
Board - February 2019	The Board considered progress against the business plan as at January 2019.  Members noted the position.

#### Report

1. The appendix to this paper sets out the end year position of the business plan projects. This reports to the Board the extent to which the projects have delivered the project's key outputs within the year. As well as the quarterly reports received, the Board has also had more detailed papers on the majority of the projects throughout the year. The Board has previously requested a project closure report for the online accounts project and this will be brought to the Board in due course.
2. Of the eight projects on the business plan, four have been completed, although some analysis is still to be carried out on the provision of police station advice under business as unusual. The criminal fees project is the only one with the potential to have concluded within the year which had to carry forward into 2019-20. The delay on this project has been outwith our control. The other three projects that will carry forward into 2019-20 are medium term pieces of work.
3. Delivery against the plan has been generally good. Understandably, projects that have been primarily within our control have fared better in terms of progress. For example:
  - We now have an agreed and developed approach to measuring our operational performance, data from which is now being published.
  - Strengthening a range of our corporate governance controls, particularly around clarity of role for the Board and Chief Executive.



- We have, for the first time, a people strategy which will be delivered over the following five years.
  - Development of a toolkit for the work being carried out under the GALA project which should enable, dependent on securing additional resources, significant recasting of the handbook, production of decision makers' guidance and a series of policy reviews by the Legal Assistance Policy Committee throughout 2019-20.
  - Delivery of the full suite of online solicitor accounting products.
4. The year was not without developments that impacted on our key projects. Whilst we expected the police station project to draw to a close it continued in order to monitor and respond to disruption by private solicitors to delivery of police station advice and subsequently court duty. In the latter half of the year, the Scottish Government announced its intention to increase fees for solicitors and counsel across all types of legal assistance by 3%. The former changed the scope of the police station project and the latter significantly impacted the timetable for the online accounts project.

	<b>Governance Links</b>
1	<b>Finance and Resources</b> Costs and resources are considered at a project level as part of project management governance. Reprioritisation of resources is considered where necessary at Exec Team level when it collectively considers the business plan on a monthly basis.
2	<b>Risk</b> The Executive Team considers progress against the business plan and the corporate risk register simultaneously. A number of the business plan projects are key to our mitigation of corporate risks or are contributing factors to changes in our risk environment.
3	<b>Legal and Compliance</b> N/A
4	<b>Performance</b> N/A
5	<b>Equalities Impact</b> Each project on the business plan considers equalities impacts as appropriate and this has oversight at the Executive Team.
6	<b>Privacy Impact and Data Protection</b> N/A
7	<b>Communications and Engagement</b>

	<p>The Board has agreed that progress against our business plan should be transparent and information in this respect is now published through board papers and the annual report.</p> <p>Staff are updated on progress following the Board and managers are consulted on the development of the organisation's priorities.</p>
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#### **Conclusion and next steps**

Members are invited to comment on our assessment of delivery. We will develop the commentary of delivery further for inclusion in our annual report and accounts later in the year.

#### **Appendices/Further Reading**

**Appendix 1 - SLAB Business Plan 2018-19 end year delivery summary**

SLAB BUSINESS PLAN 2018-19 END YEAR POSITION

Project	Summary	End Year Status	End Year Assessment
Response to the Legal Aid Review	This project aimed to develop a range of options and advice in order to assist the Scottish Government with its response to the Independent Review of Legal Aid.	CARRY OVER TO 2019-20	<p>The work on the legal aid review is ongoing and will continue into 2019-20.</p> <p>The Board received numerous papers and updates on the review work during the year, including a session at the awayday in August 2018.</p> <p>Assessing the success of this work during 2018-19 has been challenging. Our main role was to provide technical advice to the Scottish Government in order for it to frame its response to Martyn Evans' review. We did not have ownership of the response. We did, however, devote a significant amount of effort in building a governance structure and focus around our joint work with SG in order to better present advice and highlight the risks related to responding to the review in different ways.</p> <p>There were areas of clear success in our joint work with SG. We developed technical advice on a range of improvements that could be made to the current system of judicare. This was discussed with the Policy Committee in July 2018. Our understanding is that SG has accepted these as options to consult on in future. In addition, and linked to the part of the review response on payment structures, SG agreed with our advice in respect of the remit and status (i.e. SG led) of the payment panel. The panel was announced by SG in March 2019 and the first meeting has now taken place.</p> <p>Other work that we progressed that will inform the review is the joint work with the Law Society on investigating the feasibility of a single grant of legal aid and also commissioning research into how peer review fits with wider quality assurance and could help consumers choose effectively between providers.</p>
Corporate Governance	This project aimed to review and develop a range of aspects of our corporate governance framework.	COMPLETE	<p>The work on the Corporate Governance Project was delivered during the financial year with the project board considering and approving the project closure report in March 2019.</p> <p>The aims of the project were to develop a set of corporate values that would direct our approach to our work, review and refocus the LSPC remit, review our decision making structure, review current reporting tools for the board and it's committees and improve the recording and reporting of complaints received.</p> <p>The board approved the proposed corporate values, the LAPC remit (formerly LSPC), new corporate sections of the Delegated Authority Matrix and changes to the complaints definition. In addition to this board reports have been prepared in a new style template since December.</p>
People Strategy	This project aimed to develop a People Strategy for approval by the Board.	COMPLETE	<p>The aim of the work in 2018-19 was to produce a People Strategy, informed by consultation with staff and to have this approved by the Board.</p> <p>This was delivered. We discussed this with the Board at its awayday in August. We followed this up with discussion at the managers awayday and a series of more focussed workshops. The draft strategy was also shared with the Union for comment.</p> <p>The draft strategy was approved by the Board at its meeting in November. The strategy will cover a five year period from 2019 to 2023. 2019-20 will focus on the delivery plan and governance arrangements surrounding the programme of work. As we have previously advised the Board, the commencement of the next phase of work is dependent on the recruitment of a project manager and decisions on the structure of the HR department.</p>
Guidance on the Administration of Legal Aid (GALA)	This project aimed to implement a new framework for the development of any decision making guidance or information about the legal aid schemes.	CARRY OVER TO 2019-20	<p>The aims of the work in 2018-19 were to focus on the development of a decision making framework and new operational decision making guidance and external guidance. The tools for this have been developed and are being refined by the project team.</p> <p>Resource for the project was diverted to the Corporate Governance project over the summer of 2018 to work on the connected work stream of Corporate Values. While this caused work on the GALA project to stall for a period it proved useful in providing the high level framework for supporting change in how we design and implement policy and guidance.</p> <p>The review of the current legal aid handbooks has taken up a large portion of project time. The layout of content has been reviewed and redesigned to fit with the new website layout and the contracting of an external writer required a greater focus than had been anticipated. Work on this is now progressing and expected to complete in early summer.</p> <p>The next phase of the project will focus on reviewing all content and developing decision makers' guidance and reviewing policy where required.</p>
Performance Framework	This project aimed to continue to develop monitoring of our operational performance, agree benchmarks for 2019-20 and to develop phase 2 of the project.	CARRY OVER TO 2019-20	<p>Phase 1 of the project was delivered in 2018-19. The SLAB Operational Performance Overview Report (SOPOR) was reviewed during the year, taking into consideration feedback from board members. A revised format for operational reporting has been agreed for 2019-20. We began publishing the SOPOR on our website in January 2019.</p> <p>During the year we developed proposals for benchmarking our operational performance from 2019-20. These were discussed with the Board during the development phase and the Board approved the approach in March 2019.</p> <p>On the customer satisfaction workstream, we ran a series of micro-surveys over a six-month period across all legal aid types and published the results of these on our website in October 2018. We then paused these surveys and relaunched them again in March 2019.</p> <p>We also developed proposals for the development of performance measures in non-operational areas of the business. These were shared with the Board in March 2019 and will be developed further through Phase 2 of the project in 2019-20.</p>
Planning and Monitoring of Police Station Advice	This project aimed to assess the delivery of police station advice post implementation of the Criminal Justice (Scotland) Act 2016.	COMPLETE	<p>This project has been delivered. The aim of the project was initially to monitor the impact of the Criminal Justice (Scotland) Act and also consider the future operation of the police station plans.</p> <p>However, the focus of the project necessarily had to be on monitoring and analysis of the take up of police station advice due to the unexpectedly low levels of demand following the implementation of the Act. This was achieved. We agreed with Police Scotland that they would send us relevant police custody statistics on a quarterly basis. This information, together with data from our own systems allowed us to effectively monitor the provision of advice given in police stations. Following joint working, Police Scotland updated their systems in May 2018 allowing for more detailed reporting on the breakdown of legal advice in police stations. As such, the Project Board has agreed to do a full analysis and comparison with the costing estimates based on annual data for June 2018 to June 2019.</p> <p>In addition, there was a need to focus on the handling of the action taken by private firms to withdraw from a number of the police station plans. We activated a contingency plan to use the PDSO to fill the gaps in supply. This operated effectively with no evidence of supply issues during the year. This was no doubt helped by the lower than expected levels of demand.</p> <p>We also carried out a range of risk assessment work during the year. We submitted technical risk advice to SG on localised issues in the North East and also risk advice in light of the evolving situation concerning the wider duty schemes in Edinburgh. The year saw Edinburgh Bar Association withdrawals from both the JP and extradition duty schemes as well as consideration of withdrawal from the court duty scheme. Again, this situation was managed through the use of PDSO solicitors.</p> <p>As part of the new Corporate Governance and Risk Group, we also carried out a risk assessment around future disruption from solicitors (in Edinburgh or elsewhere) and the potential areas of supply that were susceptible. The risk of this was assessed as low.</p>
Online Accounts	This project aimed to deliver the remaining suite of legal aid online accounts products.	COMPLETE	<p>The 3% rise in fees had an impact on the final stages of this project. However, we launched the remaining solicitor accounts modules in April 2019 in order to bring the key parts of this project to fruition:</p> <p>During the year there were new accounts products launched in May 2018, September 2018, with the final deployment of major products held over to April 2019 to coincide with the deployment of the changes required for the 3% uplift.</p> <p>The Board has previously requested a more detailed report on this project following its conclusion, setting out lessons learned and benefits delivered. This will be brought to the Board in due course.</p>
Review of fees in Criminal Legal Assistance	This project aimed to continue with the development of fee reform proposals, dependent on Ministerial decisions.	CARRY OVER TO 2019-20	<p>We agreed with the Scottish Government, through its membership of the project board, that the priority for this work should be on criminal legal aid fees.</p> <p>Due to the publication of the legal aid review, and SG's consideration of its response to that, implementation of fee reform under this project was effectively put on hold for the majority of the year.</p> <p>Proposals for reforms to solicitors' fees had already been developed and roadshows with the profession held. We developed an updated version of a consultation for SG to consider and this will be sent once we have revisited the financial modelling. The Scottish Government has announced its intention to consult on taking forward the changes to solicitor fees.</p> <p>In respect of fees for counsel, we met a number of times during the year with the Faculty of Advocates and Solicitor Advocate branch of the profession in relation to the review of fees for criminal first instance proceedings. We reached agreement with both sides on the changes that could be made to the fee regime and a detailed proposal has now been submitted to the Scottish Government.</p> <p>In its response to the legal aid review, the Scottish Government announced a 3% uplift in fees across all aid types for solicitors and counsel. This is due to come into force on 26 April 2019. This required us to advise the SG on the best way to implement the increase across the different fee types. We also needed to redeploy resources onto the necessary systems development work at relatively short notice. This was successful and we have published guidance for solicitors to assist them in claiming the fee increase.</p>

<b>Report to:</b>	The Board
<b>Meeting Date:</b>	7th May 2019
<b>Report Title</b>	Annual Report on the Criminal Quality Assurance Scheme for Criminal Legal Assistance 2018/19
<b>Report Category</b>	For Information
<b>Issue status:</b>	Business as usual

<b>Written by:</b>	
<b>Director responsible:</b>	Director of Operations
<b>Presented by:</b>	
<b>Contact details:</b>	

<b>Delivery of Strategic Objectives</b>	
Select the Strategic Objective(s) relevant to the issues	<p>1. to deliver improvements to legal aid processes that increase efficiency and improve the experience of system users and customers.</p> <p>4. to build and maintain effective and collaborative relationships with the legal and advice sector and our public sector partners as we seek to achieve our purpose and contribute to wider Scottish Government aims.</p>

<b>Link to Board or Committee Remit</b>
The Board has a key role in overseeing SLAB's delivery of best value. The Criminal Quality Assurance Scheme is an important way in which best value is delivered.

<b>Publication of the Paper</b>
It is recommended that this paper should be published.

<b>Executive Summary</b>
<p>The purpose of this paper is to report on statistics, issues and findings of the Criminal Quality Assurance scheme for the 2 year period 1 April 2017 to 31 March 2019.</p> <p>The report sets out the statistics, issues and findings of the scheme for a 2 year period to 31 March 2019. This is longer than previous annual reports as it covers the end of the first 6 year cycle of reviews which ran to the end of March 2019. Overall, 93% of solicitors passed their first routine review in this cycle, with 81% of solicitors who failed passing at the next stage.</p>

Previous Consideration	
Meeting	Detail
21 May 2018	The Board considered the last annual report of the Criminal Quality Assurance Scheme for the year 1 April 2016 to 31 March 2017.

Report
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## OUTLINE OF THE CRIMINAL QUALITY ASSURANCE SCHEME

1. The Criminal Quality Assurance Scheme was devised in partnership with the Law Society of Scotland and commenced in 2012. The scheme is administered by SLAB under Part IVa of the Legal Aid (Scotland) Act 1986, and is part of the overall compliance regime.
2. All criminal solicitors who have registered with SLAB to provide criminal legal assistance are subject to peer review. The reviews are carried out over an initial six year cycle. The process is overseen by the SLAB's Criminal Quality Assurance Committee, which comprises three members appointed by SLAB, three members appointed by the Law Society of Scotland, and three independent or non legal members appointed in consultation with the Society.

## CRIMINAL QUALITY ASSURANCE COMMITTEE

3. During 2017 and 2018, the following served on the Committee:

NAME	DESIGNATION
Colin Lancaster (Chair)	SLAB Chief Executive
Matthew Auchincloss	PDSO Director
Paul Reid	SLAB Board Member
Peter Lockhart	Law Society Member (to February 2018)
Roddy Boag	Law Society Member
Gordon Martin	Law Society Member
Douglas Thomson	Law Society Member (Feb to Dec 2018)
Duncan MacDonald	Non Legal Member (to February 2018)
Catherine Goldie	Non Legal Member (to January 2018)
Beryl Seaman CBE	Non Legal Member
Nazim Hamid	Non Legal Member (from February 2018)
David Crossan	Non Legal Member (from March 2018)

4. The Committee receives professional advice and support from Professor Alan Paterson OBE, Director of the Centre for Professional Legal Studies at the University of Strathclyde. Professor Paterson, who is one of Europe's leading

experts on quality assurance systems in the legal profession, also provides training and oversees the work of the peer reviewers.

5. The work of the Committee is also supported by Edith Cook, SLAB's Criminal Quality Assurance Co-ordinator and Lynsey Calder, Criminal Quality Assurance Assistant, who organise all the peer reviews and the Committee business.

## PEER REVIEWERS DURING THE REPORTING PERIOD

6. During the course of 2017 and 2018, the peer reviewers conducting reviews were as follows:

NAME	FIRM	LOCATION
Tommy Allan	Allans	Shetland
Simon Brown	Matthew Brown	Irvine
Ian Cruickshank (to December 2017)	Cruickshank Law	Elgin
Kevin Douglas	Gair & Gibson	Falkirk
Colin Dunipace	Dunipace Brown	Cumbernauld
Terry Gallanagh	McCusker McIlroy	Paisley
Duncan Henderson	Inverness Legal Services	Inverness
Mark Hutchison	Gilfedder & McInnes	Edinburgh
Ranald Lindsay	Lindsays	Dumfries
Frazer McCready	McCready & Co	Stirling
James McKay	James McKay Solicitors	Elgin
Ian McLelland	J C Hughes & Co	Glasgow
Lindsay McPhie (to October 2018)	Gallen & Co	Glasgow
Paul Ralph	Paul Ralph	Fife
Grazia Robertson	L & G Robertson & Co	Glasgow
Alistair Ross	Pollock Ross & co	Stirling
Sandra Walker	Hughes Walker	Edinburgh
Gail Wiggins	Grant Smith	Turriff
Ross Yuill	Glasgow Law Practice	Glasgow

7. In the summer of 2018, the following new peer reviewers were appointed following a full recruitment exercise. These reviewers are being used for the Cycle 2 reviews which have now started.

NAME	FIRM	LOCATION
David Bell	Paterson Bell	Kirkcaldy
Nicola Brown	PDSO	Dundee
Glenn Davis	McLellan Adam Davis	Ayr
Michael Gallen	Fleming and Reid	Glasgow
Gordon Ghee	Nellany & Co	Kilmarnock

Gillian Law	Beaumont & Co	Edinburgh
Christopher McKenna	Tod & Mitchell	Paisley
James Mulgrew	Russells Gibson McCaffrey	Glasgow
Matthew Nicholson	C&N Defence	Edinburgh
Judith Reid	Clyde Defence	Clydebank

## PEER REVIEWS CONDUCTED DURING THE REPORTING PERIOD

8. During 2017 and 2018, the number of completed peer reviews considered by the Criminal Quality Assurance Committee, and the decisions taken by the Committee are shown in the table below, with a comparison to the previous year.

	<b>2017/18 &amp; 2018/19 (24 months)</b>	<b>2016/17 (12 months)</b>	<b>Cumulative total to 31 March 2019</b>
Number of Routine Reviews with decisions taken by the Committee	247	108	1097

## BREAKDOWN OF COMMITTEE DECISIONS

	<b>2017/18 &amp; 2018/19 (24 months)</b>	<b>2016/17 (12 months)</b>	<b>Cumulative total to 31 March 2019</b>
Routine Reviews passed by the Committee	233 (95%)	100 (92%)	1016 (93%)

<b>Decisions taken by the Committee</b>	<b>2017/18 &amp; 2018/19 (24 months)</b>	<b>2016/17 (12 months)</b>	<b>Cumulative total to 31 March 2019</b>
<ul style="list-style-type: none"> <li>Reviews - Excellent</li> <li>Reviews - competent plus</li> <li>Reviews - Pass competent</li> <li>Reviews - marginal pass</li> </ul>	0 27 184 22	0 13 79 8	1 142 778 95

Routine Reviews failed by the Committee	12	9	78
<ul style="list-style-type: none"> <li>Deferred extended review</li> <li>Immediate extended review</li> <li>Immediate special review</li> </ul>	12 0 0	6 3 0	69 6 3

9. 233 of the reviews considered by the Committee were passed in 2017/18 and 2018/19, 95%, which is up from 92% in 2016/17. 12 reviews were failed during this period. Routine reviews which are passed are not normally considered again within the 6 year cycle, unless they are considered to be marginal passes, which will be reviewed again well within the period of the cycle, usually within 2 years.
10. Where a review fails, the Committee has the option to carry out a deferred extended review, usually after 6 to 9 months after the decision of the review is intimated to the solicitor. This is to give the solicitor a reasonable period of time to put in place improvements to address the issues highlighted in the failed review. However, if serious issues are identified, then the extended review can be carried out immediately. In other cases, a special review can be carried out if issues are identified which need to be given immediate consideration, but the solicitor is not advised what these issues might be.

## FAILED ROUTINE REVIEWS

11. Of the 12 reviews which were failed during 2017/18 and 2018/19, four of these solicitors were sole practitioners, two were in the same two person firm, and six were in larger firms.
12. In all of the failed reviews, no immediate special reviews were requested due to the issues identified in the initial reviews. In all the failed reviews, extended reviews were deferred for a period of at least 6 months to allow the solicitors to address the issues identified in the routine reviews. These extended reviews are conducted by two different peer reviewers from the original reviewer and take place in the office of the solicitor concerned.

## EXTENDED AND SPECIAL REVIEWS CONSIDERED BY THE COMMITTEE

	2017/18 & 2018/19 (24 months)	2016/17 (12 months)	Cumulative total to 31 March 2019
Extended Reviews considered by the Committee (Deferred and Immediate)	20	12	54
<ul style="list-style-type: none"> <li>Pass</li> <li>Fail</li> </ul>	15 5	7 5	44 10



Special Reviews considered by the Committee	0	1	3
• Pass	0	1	2
• Fail	0	0	1

13. The Committee considered 20 extended reviews during 2017 and 2018. Of the extended reviews, 15 subsequently passed (75%), with clear evidence being found that the solicitors had addressed the failings highlighted in the failed routine review. Five of these extended reviews were refused (25%).

## FINAL REVIEWS CONSIDERED BY THE COMMITTEE

	2017/18 & 2018/19 (24 months)	2016/17 (12 months)	Cumulative total to 31 March 2019
Final Reviews considered by the Committee	2	0	2
• Pass	2	0	2
• Fail	0	0	0

14. In 2018 and 2019, the Committee considered its first final reviews. These took place sometime after the solicitors failed their deferred extended reviews, due to illness and the lack of available files. These final reviews were conducted on site by 2 further Peer Reviewers, who had not been involved with the solicitors before. The Committee was pleased to see in both cases that steps had been taken by the solicitors to address the concerns raised in the previous reviews, and passed the final reviews.

## OVERALL PICTURE

15. This report covers the extended period of reviews considered by the Criminal Quality Assurance Committee from 1 April 2017 to 31 March 2019. This extended period is effectively the equivalent of the sixth and final year of the six year cycle which the peer reviews follow. This last year was extended due to the consultation exercise which was undertaken in the summer of 2018 on changes to the scheme and the peer review criteria. The nature and extent of the changes being proposed to the scheme and the criteria meant that they would need to be introduced at the start of the new cycle of reviews which has now commenced. Please see paragraph 29 below for more details of this.
16. The extended period covered by the last “year” of the review cycle means that care is needed when comparing some of the figures with previous years. However, it was encouraging to see in this period that 95% of routine reviews considered by the Committee were passed as opposed to 92% in the previous year. The overall cumulative figure for passed reviews for the first 6 year cycle was 93%. Of the reviews which passed the routine review, 77% of these reviews passed were considered to be ‘competent’, with 9% only passing

marginally. A rating of 'competent plus' was achieved in 14% of the passed cases. Overall, 7% of the reviews failed. Over the cycle it is reassuring to note that most clients are receiving a good service from their solicitors, but the peer review process has also highlighted the range of standards amongst practitioners: the gap between those achieving a rating of competent plus and those failing or passing marginally is wide, as indeed is the 'competent' band itself.

17. It was encouraging to note that of the failed reviews, 81% of the failed reviews then went on to pass at the next stage, showing that improvements were put in place, and that the majority of concerns highlighted had been addressed.
18. When the first cycle of peer reviews started in 2012, the Committee agreed that the order for reviewing solicitors and firms should follow the risk based approach taken by the Compliance Audits carried out on criminal solicitors' firms. This meant that the higher earning firms and sole practitioners were prioritised in the process. Looking at the 78 solicitors who failed their routine reviews and comparing their profile to that of the current legal aid register, we see the following:

No of reg sols in Firm	Firms on CLAR	% of firms	Sols on CLAR	% of sols	Fails	% of Fails	Fails as % of all Sols
1	199	44%	199	18%	33	42%	17%
2	99	22%	198	18%	13	17%	7%
3	62	14%	186	17%	8	10%	4%
4	36	8%	144	13%	7	9%	5%
5	18	4%	90	8%	1	1%	1%
6	7	2%	42	4%	4	5%	10%
7	11	2%	77	7%	4	5%	5%
8	3	<1%	24	2%	1	1%	8%
9	4	<1%	36	3%	1	1%	3%
10	2	<1%	20	2%	1	1%	5%
Over 10	7	2%	106	9%	6	6%	6%
<b>Totals</b>	<b>448</b>	<b>100%</b>	<b>1122</b>	<b>100%</b>	<b>78</b>	<b>100%</b>	<b>7%</b>

19. The firms with only one registered solicitor had the highest % of failed routine reviews, on the basis of both the failed routine reviews (33 out of 78 - 42%), and the % of overall solicitors failing a routine review (33 out of 199 solicitors in firms with one criminal solicitor - 17%). These are mainly solicitors doing criminal business on their own with no supervision or support from other criminal solicitors in their firm. As the experience of the first cycle suggests that lone solicitors are more than twice as likely than the average to fail their review, we will continue to prioritise firms with one registered solicitor in the second cycle of reviews now underway.
20. Of the 78 solicitors who failed their routine review, 21 solicitors are no longer on the Criminal Legal Assistance Register (as at 1 April 2019).

21. A breakdown of the geographic locations of these 78 solicitors shows the following:

Location (Sheriffdom)	Number of Solicitors
Glasgow	33
Tayside, Central and Fife	13
South Strathclyde	12
Lothian and Borders	10
Grampian, Highlands and Islands	7
North Strathclyde	3

## AREAS OF GOOD PRACTICE IDENTIFIED IN THE PEER REVIEWS

22. In the Peer Reviewers' reports, the following issues were highlighted by the reviewers as areas where of good practice:

### Communications

- Keeping clients informed of progress
- Detailed instructions and emails to agents
- Obtaining detailed instructions from clients at the outset
- Regular meetings with clients

### File Keeping

- Good quality notes of meetings taken and kept on file
- Clear evidence of file checks being undertaken
- Full and clear notes kept of clients' instructions
- Files well organised for court

### Legal work

- Managing client expectations well
- Clear consideration of disclosure
- Good preparations for trial
- Early identification of CCTV evidence apparent
- Good negotiations and discussions with the Crown

### Legal aid issues

- Online mandates completed well
- Sanctions submitted well
- Accounts well prepared and set out
- Good apportionment of travel between files
- Transfer procedures well followed.

23. A selection of anonymised quotes from actual peer reviews which highlight the areas of good practice found, and quotes from files identified as excellent is shown at Appendix 1.

## AREAS IDENTIFIED IN THE REVIEWS WHERE IMPROVEMENT IS NEEDED

24. In the Peer Reviewers' reports, the following issues were highlighted by the reviewers as areas where improvement was needed:

### Communications

- Clients not advised about disclosure
- Poor initial instructions taken
- No discussions on early pleas
- No record of meetings held with clients

### File Keeping

- Insufficient file recording
- No letters of instruction to agents on file
- Poor information on file on why cases are going to trial
- Gaps in files
- No details of the defence recorded on file

### Legal Work

- Experts not instructed
- Failure to obtain disclosure
- Cases allowed to drift
- Possible abuses of court process

### Legal Aid Issues

- Full fixed fees claimed in duty cases
- Defence information in Legal aid application not consistent with early plea
- No mention of partners on Online mandates
- Poor review applications

25. A selection of anonymised quotes from actual peer reviews which highlight the areas where improvements were needed is shown at Appendix 2.

## LAW SOCIETY SUPPORT SCHEME

26. During the year, we continued to operate the Law Society's scheme of support which can be given to sole practitioners and smaller firms to improve their practice following a failed routine review. This scheme is intended to provide assistance to solicitors who fail a review and who wish help with introducing improvements prior to the next stages of the Peer Review process. A number of solicitors who had failed their routine reviews have asked for this assistance.

27. Solicitors who obtained the "competent plus" scores in their own reviews are now being asked if they are willing to be considered for providing this assistance. The Law Society invites all solicitors with a competent plus marking to be part of the Support Scheme, which they run. A Memorandum of Understanding on the operation of this scheme has previously been agreed.

28. When we intimate a refused routine review, our refusal letters include details of the Support Scheme and how a solicitor can seek support under the scheme by contacting the relevant member of staff at the Law Society to use the service. When contacted by a solicitor who has failed his/her routine review, the Society refer the solicitor to a Support Scheme Solicitor on a confidential basis. The Society use a rota scheme to select the solicitor who can provide support, although if for professional or personal reasons the solicitor who has failed his/her review wishes to use another solicitor, this will be considered.
29. The Law Society have advised that they have only been contacted once for support in this way, when help was provided by a member of their Criminal Law team. We will continue to publicise this service for solicitors who fail routine reviews in the second cycle.

#### *Assistance from SLAB*

30. Solicitors who fail routine peer reviews also receive assistance from us. When a review is failed, the QA Co-ordinator sends the solicitor a package which contains a sample of Terms of Engagement letters, a tick list that they can start using for all of their files plus a copy of some of the good comments we have had for some reviews. This is all part of the aim to help to improve the standards of service provided to clients as well as offering assistance with the peer review process.

#### **NO FILE REVIEWS**

31. As in previous years, we continued to find that a number of solicitors registered to provide criminal legal assistance do not actually perform much or any criminal legal assistance work on a regular basis. Most of these solicitors do not have any grants of criminal legal aid in their name, so we cannot identify any files for the peer review. The Criminal Quality Assurance Committee recommended that there should be other ways of assessing a solicitor's suitability to provide criminal legal assistance where case files cannot be produced for this purpose.
32. This resulted in a new provision in the revised Code of Practice for Criminal Legal Assistance which came into force on 25 January 2018 which states that solicitors without sufficient files to be reviewed will need to demonstrate to the satisfaction of the Criminal QA Committee that they have the required knowledge, skills and experience to deliver criminal legal assistance. The method of doing this was consulted upon in the summer of 2018, along with other changes to the Criminal Quality Assurance Scheme and Criteria. This helped us devise a pilot approach for carrying out the reviews of the solicitors who cannot provide sufficient or any files to be reviewed.

## CONSULTATION ON CHANGES TO THE CRIMINAL QUALITY ASSURANCE SCHEME AND THE PEER REVIEW CRITERIA

33. The consultation conducted in the summer of 2018, proposed a number of changes to the Scheme as follows:

- A new outcome system, formalising the Committee's options of Marginal and Good passes;
- A new procedure for follow up reviews after a Pass Marginal score, giving the Committee the option to refuse the review if no overall improvements have been shown;
- A new procedure for routine reviews in the second cycle, where the reviewers will be sent a copy of the previous review and be asked to comment on whether any previous issues have now been addressed after conducting the review;
- A new procedure for solicitors unable to provide sufficient files for review, to allow the Committee to be satisfied that they have sufficient knowledge, skills and experience to deliver criminal legal assistance.

34. The consultation also proposed a number of changes to the summary, solemn and appeals peer review criteria, as follows:

- New questions at the start of the summary and solemn criteria dealing with police station advice, and any post interview procedures;
- Removing unnecessary questions about ABWOR, reviews, and sanctions which are covered elsewhere;
- A new question about mandates, and new guidance in line with the guidance note issued to the profession in March 2016;
- New guidance about responding appropriately to a transfer mandate;
- Solemn criteria - in the section on Preparation for the trial/Section 76, adding a reference to Written Records and Deferred Sentences;
- Summary and Solemn criteria - removing the question on Consideration of the Account;
- Criminal Appeals criteria - in the Application for legal aid section, removing the point about Regulation 15 and full legal aid being submitted at the right times as if they were not, legal aid would not be granted, so there would be no file to review.

35. In all, six responses to the consultation were received, four from individual solicitors, one from the Law Society of Scotland, and one from the Glasgow Bar Association. These responses helped us bring forward the changes to the scheme and the new criteria which are being used for the new cycle of reviews.

## NEW CRIMINAL QUALITY ASSURANCE IT SYSTEM

36. An update to the IT system which we use for processing and recording the results of the peer reviews (the Criminal CAMS system) was developed and deployed in January 2019 for use with the new cycle of reviews. In brief, the system:

- creates the peer reviews,
- randomly selects files for the reviews,
- advises the solicitors being reviewed of the files required, the process for file collection and the identity of the reviewer(s),
- allows the Peer Reviewers to record their outcome of the reviews,
- produces a report of the Peer Reviewers' recommendations for consideration by the Criminal Quality Assurance Committee,
- records the decision of the Committee of the reviews,
- intimates the Committee's decisions to the compliance manager of the solicitors under review.

37. As part of the wider programme of transferring SLAB systems to new platforms, the Criminal QA system was transferred to a new platform and now uses many of its existing features together with features already being used by the Children's QA system which had been developed on the platform. The new criteria for the Summary, Solemn and Appeals reviews which was agreed by the Committee following the consultation exercise have also been included in the new system. The new system will be used for Peer Reviews being carried out under Cycle 2.

38. The benefits of the new system will be seen by:

- Criminal solicitors being reviewed who will receive clearer and better presented reports on the review as agreed by the Criminal QA Committee;
- Criminal QA Committee members who will also have the improved reports on the reviews to consider;
- Criminal QA Peer Reviewers, who will also be able to use the updated criteria agreed following the recent consultation exercise;
- Criminal QA staff who will have a more responsive and flexible system to operate with additional features.

39. The new system will also make it easier to extract better analysis information to allow more reports on the findings from the reviews on particular aspects such as the equalities and other considerations.

	<b>Governance Links</b>
1	Finance and Resources No issues of note.
2	Risk No issues of note.
3	Legal and Compliance No issues of note.
4	Performance No issues of note.

5	<b>Equalities Impact</b> An impact assessment is not required at this time concerning the content of this paper.
6	<b>Privacy Impact and Data Protection</b> No privacy or data protection issues identified.
7	<b>Communications and Engagement</b> This paper has been agreed for publication. In addition, a separate publication will be sent out to the legal profession with the aim of sharing good practice.

### **Conclusion and next steps**

Members are asked to note the findings from the reviews undertaken during the period 1 April 2017 to 31 March 2019, and that this report will form the basis of the next mailing to the profession on the scheme.

### **Appendices/Further Reading**

Appendix 1: Quotes from peer reviews highlighting good practice  
Appendix 2: Quotes from peer reviewers highlighting where improvements are needed



## AREAS OF GOOD PRACTICE IDENTIFIED IN THE PEER REVIEWS

The following are some specific quotes from the actual reviews which passed, highlighting these areas of good practice found:

<i>The client's hopes and expectations were clearly unrealistic regarding the case and the solicitor accomplished an excellent job in managing the case. The notes kept from some of the consultations are very detailed. The client's complaints were dealt with - the management of this case and client were exceptional.</i>
<i>This is a file which was clear to follow and which demonstrated more than mere competence throughout. The client is kept informed as matters progress beyond a bare minimum, the Court attendance notes are clear and the file is regularly checked (evident from its presentation and the note on the front cover).</i>
<i>Sanctions are pursued appropriately and defences explored diligently (even in fixed fee cases). Care is taken to lay out for clients what is happening and has recently happened in their cases. The expanded and detailed notes of court reports (which must be time consuming) make it very straightforward for other solicitors to pick up the file if necessary.</i>
<i>This was an easy review to carry out as the files were in good order. Each file has a "Minute of Proceedings" which helpfully sets out what happened on each of the court appearances. There were detailed attendance notes which made the files easy to follow. There was effective communications throughout. Where there were problems with securing funding due to vouching being required, the solicitor promptly sought information from the accused and thereafter provided the information to SLAB.</i>
<i>This again is a good file and one which shows this firm have good systems and are providing a very good service. Very full and clear note of client's instruction provides a firm basis to work from thereafter. Clear consideration of disclosure and the effect of the evidence. Repeated effort to pin down PF to discuss the case and resolve. Case resolved and confirmed in clear s76 letter. Written narrative obtained and discussed with client in advance. Issues re s16 &amp; 17 discussed. Plea resolved and decent outcome. Clear meeting afterwards and no appeal as client happy as concurrent sentence achieved. Account properly set out and accurately reflects work done. All letters and meetings timely. T of B on file. Everything you'd expect present but done well and typed and handwritten notes, reviews and court sheets all show a well organised firm.</i>
<i>The files are all neatly presented with the disclosure prepared in order (usually in line with the indictment) and bound together with essential notes of preparation separate from the correspondence file in a handily accessible 'file' for ease of reference in court. The preparations are all rigorous and fully documented - usually with notes prepared and typed to flesh out the perusal and reflect on the effect on the case.</i>

*I always value files where the only dramas are contained in the complaint! Although quiet, competent and consistent efficiency is not going to strike anyone as glamorous or exciting, it is the best way to get things done and is something which needs to be recognised. I could quite happily pick one of these up and after having time to read it, go in and conduct the trial. This solicitor should have a number of grateful and loyal clients.*

## FILES RATED AS EXCELLENT

The scoring system for each of the 8 files reviewed as part of the Routine Review is on a 1 to 5 basis with 1 being very poor and 5 being excellent. There were a number of files marked as excellent during the year and the reviewers gave the following comments on some of these files:

*This was a very well prepared file for a complex case. The agent and his assistants put in considerable work in obtaining a positive outcome for the accused who was found to be unfit to participate in the trial in terms of s53 of CPSA. The agent identified expert and obtained reports and consulted with those experts. Counsel were involved in the preparations and the presentation of the case.*

*From the outset the solicitor handled this matter with skill aptitude and persistence. She worked well as a team with Counsel in the preparation for the Appeal and again demonstrated skill and persistence in accessing the all-important medical records despite many bureaucratic hurdles.*

*It was refreshing to see that a telephone conversation took place prior to the transfer form being submitted to SLAB, and that the outgoing solicitor submitted the appropriate Cease to Act form to SLAB.*

*This was an excellent Review overall with high quality notes of perusals, meetings, court attendances etc throughout. Easily the best overall Review which I have conducted reflecting good processes throughout the firm to ensure that matters are properly handled.*

## AREAS IDENTIFIED IN THE REVIEWS WHERE IMPROVEMENT IS NEEDED

The following are some specific quotes from the actual reviews, highlighting the areas where improvement was needed:

*The file has insufficient recording. The disclosure is not annotated nor is there a file note for perusal. The client is never written to advise it is available for discussion. There was a meeting at court but the entry does not record what was discussed nor what advice was tendered to the client. The trial diet was covered by another firm and there was no letter of instruction on file to them.*

*Too much is missing from the file. This includes most importantly a total absence of information on why the case is proceeding to trial, advice on early pleas, the on-line application, a closing letter and advice on appeals. I do not have an account but there is a file note which seems to indicate the Scottish Legal Aid Board (SLAB) are likely to be charged 25 minutes for listening to a dvd which the solicitor should know is for a no comment interview.*

*Despite the papers being clear this is a duty case attracting only a half fee as there was a plea at the trial diet without evidence. Someone has submitted an account stating evidence was led and taken a full fee for the firm.*

*This file related to the grant of ABWOR in relation to a preliminary plea of time bar. However the solicitor incorrectly identified this as being a 6 month time bar case when in fact it is 12 months.*

*Overall this is a difficult file given it is incomplete. The case has been brought to the attention of senior management then allowed to drift. It is the drift with a potentially dangerous client that caused concern. I note that while the consultant states he has spoken to the nominated solicitor this is not recorded. The on line application, grant of legal aid and grant of sanction (but not the sanction application) are filed.*

*This file is a borderline file largely due to the failure to obtain Disclosure in this case. The initial file note is brief but sufficient, although the solicitor never appears to have received a copy of the complaint despite applying for this. The main difficulty is that the solicitor appears not to have applied for Disclosure, and indeed there is no copy complaint on the file.*

<b>Report to:</b>	The Board
<b>Meeting Date:</b>	07 May 2019
<b>Report Title</b>	Complaints Update
<b>Report Category</b>	For Discussion
<b>Issue status:</b>	Business as usual

<b>Written by:</b>	
<b>Director responsible:</b>	Director of Strategic Development
<b>Presented by:</b>	
<b>Contact details:</b>	

Delivery of Strategic Objectives	
Select the Strategic Objective(s) relevant to the issues	<p>1. to deliver improvements to legal aid processes that increase efficiency and improve the experience of system users and customers.</p> <p>3. To ensure that our organisation has the culture and capability to be responsive to our customers, the justice system and developments in legal and advice sectors.</p>

Link to Board or Committee Remit
This paper is linked to the Board's function of holding the Executive to account for performance.

Publication of the Paper
We have considered this paper for its suitability to be published. We recommend to the Board that the paper should be published. The information is not sensitive.

## Executive Summary

**Frontline complaints** are issues that are straightforward and easily resolved with little or no investigation required. These complaints have a response deadline of five working days.

**Investigation complaints** are those that have not been resolved at the frontline or for issue that are serious, complex or high risk. These complaints have a response deadline of 20 working days.

In June last year we moved the recording of complaints received onto a IT system called JIRA, a task and project tracking programme. This report sets out the data that

has been recorded since the system was introduced up to December 2018 as well as current developments in our complaints monitoring work.

The new system is proving more efficient and user friendly in terms of data entry and data retrieval. However, further work is being carried out to ensure all data fields are completed and that staff understand the definitions of complaints. The data retrieved from the IT system is necessarily high level. We will be creating a central record of all investigation complaints so that the Chief Executive's Office can carry out more in depth analysis of complaints in future reports.

Previous Consideration	
Meeting	Detail
05 November 2018	<p>Members considered a paper updating the position on complaints handling work and seeking approval for a change to the definition of a complaint within the Complaints Handling Procedure (CHP).</p> <p>It was noted that a wider definition of a complaint was proposed, whereby any challenge to a decision where the correspondent has expressed dissatisfaction with SLAB decision making would be included.</p> <p>After discussion, it was agreed:</p> <p>Subject to amending the wording of the procedure to substitute 'dissatisfaction with a SLAB decision' with how a SLAB decision has been made, to <b>approve</b> the change to the complaints handling procedure as proposed.</p>

## Report

### ***Frontline complaints received***

Only one frontline complaint was logged during the reporting period.

In previous updates to the Board we were reporting a quarterly figure of between 20 to 30 frontline complaints which were logged via a spreadsheet. We have been liaising with managers to discuss the new recording process and to try and understand the reasons for the fall in reporting. In the main, this is due to fewer staff having access to the new system meaning complaint details have to be sent to the relevant complaint coordinator for entering onto the system.

In order to improve the process we will be supplying staff with a short form, accessed via the intranet, which can be completed quickly as soon as a frontline complaint is received and then sent on to the relevant team member for recording.

We will also continue to liaise with managers to ensure there is an adequate understanding amongst staff of frontline complaints and the importance of us understanding their impact. We will be formulating case study guidance for staff in

this respect. Early liaison with managers at the beginning of the year on this issue has had an impact as, since December, the recording of frontline complaints has been increasing and we would hope that that trend will continue.

### *Investigation complaints received*

Table 1.

Department	Total complaints	Findings			Complainer				Main category for complaint
		Justified	Part Justified	Not Justified	Applicant	AP	Solicitor	Other	
Civil applications	13	1	1	11	2	1	2	8	Dissatisfaction with SLAB policy or procedures (10 of 13)
Civil finance	6			6	1	2		3	Dissatisfaction with SLAB policy or procedures (5 of 6)
Civil accounts	5	3	1	1			5		Poor communication or standard of service (4 of the 5)
Compliance and API	5			5	2	1		2	Dissatisfaction with SLAB policy or procedures (2 of 5)
CLAO	2			2	1	1			
Criminal applications	1		1				1		Dissatisfaction with SLAB policy or procedures
Grant Funding	1			1				1	Dissatisfaction with SLAB policy or procedures
Legal Services	1			1		1			Failure to follow proper procedure
Technical	1			1					

Between 1 June and 31 December 2018, 34 investigation complaints were received, of which 79% (27) were found to be ‘not justified’. Only four were found to be justified and three part justified.

Over half of the investigation complaints, 63% (20), were classed as being a ‘dissatisfaction with SLAB policy or procedure’. Of those, 90% (18) were found to be ‘not justified’.

Of the 34 complaints responded to, 88% (30) were responded to within the 20 working day deadline.

### *Analysis of investigation complaints*

This is where our more detailed analysis of the actual complaints and responses will be beneficial. It has not been possible to draw definitive conclusions from the system data alone. For example, patterns of dissatisfaction, links between types of dissatisfaction and our finding as to its justification, or differences in types of dissatisfaction between categories of complainers.

We are not receiving the majority of our complaints from a particular complainer group with the distribution across the different categories being fairly even. Only 20% (7) of the complaints came from solicitors. Perhaps unsurprisingly, the majority of solicitor complaints were received by the accounts department.

The ‘other category’ is made up in the main of opponents in civil legal aid cases and MPs. We will change the JIRA recording fields to include opponents and MSPs/MPs as separate categories.

We are still experiencing low levels of investigation complaints being recorded in some business areas when compared with others and we will look into the reasons for this.

More detailed analysis will also help us to better understand and report on further actions that have been necessary and actioned as a result of failings. Although the new IT system enables the capture of this information, it has not been utilised as we would have hoped. Of the five complaints found to be either justified or part justified only three completed the further actions fields. These were recorded as no further action being necessary.

The further actions field is considered to be one of the more important reporting features of Jira and this will be covered with complaints co-ordinators and managers in follow up meetings and training.

Governance Links	
1	Finance and Resources No issues of note.
2	Risk Complaints are an important way in which we can assess our service. Taking action as a result of justified complaints is a key control for our corporate risk of failing to deliver improvements to legal aid system.
3	Legal and Compliance Our complaints handling procedure follows a mandatory model supplied by the Scottish Public Services Ombudsman. We must report data on complaints as part of the SPSO's regulatory regime.
4	Performance Our performance against complaints handling is currently being considered for inclusion in phase 2 of our performance management framework project.
5	Equalities Impact An equalities impact assessment is not required in relation to this report.
6	Privacy Impact and Data Protection Nothing to note.
7	Communications and Engagement SLAB has an obligation to publish complaints stats. This paper will be published as part of our ongoing commitment to publish board papers.

Conclusion and next steps
Members are asked to note and comment on the report.

We will report to the Board again in September where we aim to have made a number of improvements to the data and the analysis of it.

<b>Appendices/Further Reading</b>
None.



<b>Report to:</b>	The Board
<b>Meeting Date:</b>	7th May 2019
<b>Report Title</b>	Performance Report
<b>Report Category</b>	For Information
<b>Issue status:</b>	Business as usual

<b>Written by:</b>	
<b>Director responsible:</b>	Director of Operations
<b>Presented by:</b>	
<b>Contact details:</b>	

Delivery of Strategic Objectives	
Select the Strategic Objective(s) relevant to the issues	1. to deliver improvements to legal aid processes that increase efficiency and improve the experience of system users and customers.

Link to Board or Committee Remit
To monitor the performance of the Operational Departments.

Publication of the Paper
The Board has previously agreed that this paper should be published as a matter of course. It will be published on our website in due course.

Executive Summary
<p>The purpose of this paper is to report on operational performance as at 31<sup>st</sup> March 2019.</p> <p><b>Applications</b> - The performance across the Applications Department is good.</p> <p><b>Accounts</b> - The overall position remains mixed although there have been improvements in some areas.</p>

Previous Consideration	
Meeting	Detail
25 <sup>th</sup> March 2019	<p><b>Applications</b> - The overall departmental performance was good.</p> <p><b>Accounts</b> - The overall position is still mixed. Although the durations for each area is longer than last year this is broadly in line with where we currently expect to be.</p>

### Civil Applications

1. The overall performance in civil applications is generally good.
2. However, in the last three months, for non AWI cases, our performance in relation to the first decision average duration has increased by 5 days when compared to the same period 1 year ago. The increase in duration is as a result of the previously reported staff vacancies in the means assessment teams and new staff being trained. This is being closely managed and additional resource being made available to the department in the form of overtime. We know that more recently, durations are starting to improve as staff become fully trained and able to fully participate in the work of the teams. In addition, overall staff numbers in the merits team have reduced slightly with a modest impact on throughput. The volume of civil legal aid applications has also increased compared to the previous year.
3. The ratio of further work to first decision measures the number of cases requiring further work as a percentage of the total number of first decisions in the period. Further work can occur after a case is refused and a review is received; or where we continue for information, which isn't supplied until after the required period. The ratio has decreased by 7% to 17% and the grant rate has increased by 8% to 68%, when compared to the same period last year.
4. This is because we have clarified some of our guidance so solicitors know what to put in an application and we have been working directly with a number of firms helping them to improve their interactions with us which encompasses help with applications. We also made changes to our process: we continue many more applications for legal aid at first instance to get missing information and therefore the volume of reviews is reducing. However, this means that the reviews which are received are more likely to be contentious or more complex and will therefore take longer.

### Accuracy Results

5. 100% of applications checked were marked as having a good level of accuracy, which was the same as last year.

### Customer Satisfaction Survey Results

6. The short, regular customer satisfaction surveys were suspended after two sweeps to avoid respondent fatigue. These have now restarted and we now have results for civil legal assistance from March 2019 to compare against the previous sweep in July 2018.
7. Response rates have improved very slightly since the last sweep. Satisfaction levels have however improved more significantly, with those

expressing satisfaction sitting at 70%, compared to 63% in the previous sweep. Only 3% say they are very dissatisfied, compared to 9% in the previous sweep, with 29% very satisfied, compared with 25%. Both low and high volume solicitors are showing improved satisfaction levels, with high volume solicitors remaining more satisfied than those submitting fewer applications.

8. The overall satisfaction rating of 70% is good taking into account the complexity of the legal aid process and the broad range of issues that need to be dealt with on a daily basis. We have considered the comments provided and will look to see if there are further improvements we can make to our processes to simplify the operation of the system as we know that the changes we made in June 2016 were helpful to the profession and to staff. Further streamlining can only improve the operation of legal aid for everyone involved.

## **Criminal Applications**

### *Criminal - Summary*

9. The overall performance remains good.
10. First Decision Average Duration improved on last year from 10.7 to 10.3 days, despite the DWP link for checking applicants' benefits being down for almost 2 weeks at the start of the year. The ratio of Further Work to First Decisions also improved from last year, from 18% to 16%.

### *Criminal - Solemn*

11. First instance durations increased from 5.2 days to 5.6 days compared to the same period last year. The ratio of Further Work to First Decisions rose slightly from last year, from 8% to 9%. At this stage solemn applications are up 9% on last year's receipts.

### *Accuracy Results*

12. 99% of applications checked were marked as having a good level of accuracy, which was the same as last year.

## **Children's applications**

13. The overall performance remains good. Average durations have decreased from 9.5 days to 8.4 days compared to the same period last year.

### *Accuracy Results*

14. 100% of applications checked were marked as having a good level of accuracy, which when compared to the same period last year is an increase of 3%.

## Accounts

### Civil Accounts

15. The overall three month position for civil shows the average duration for initial assessments at 27 calendar days. This is 7 days longer compared to the same three months in 2017/18.
16. The performance variance against last year is to be expected due to staff resources. The civil team have been struggling during the year due to leavers, staff moving to other areas of SLAB and project work for systems and testing of the new fees. However, it should be noted that improvements were seen in February and March at 25 and 24 days respectively, but managed through a combination of home working, overtime and a reduction in mail handling.
17. One vacant post was filled in January 2019. This will help to mitigate risk in the longer term once the staff are fully trained. However, other staffing changes are expected in the next few months which could impact further on performance.
18. The average duration for negotiations was 63 calendar days in the current three months compared to 62 calendar days in the three months in 2017/18.
19. The percentage of civil accounts which were paid in full at the initial assessment were the same as the comparable three months in 2017/18 at 61%.

### *Accuracy Results*

20. Accuracy in the three months was good with 95% having been marked as a four (97% in the comparable period in 2017/18).

### *Customer Satisfaction Survey Results*

21. The results for March showed that 48% of respondents were either fairly or very satisfied. Although this is the same overall result as the previous survey in July 2018, it is encouraging to note that 25% of respondents were very satisfied (up from 20%), only 27% were dissatisfied (down from 35%) and of those only 7% were very dissatisfied (down from 18%).

### Criminal Accounts

22. The three month position for criminal shows the average duration for initial assessments at 12 calendar days which is 2 calendar days slower than the comparable period in 2017/18. However, it should be noted that this continues to improve from the position reported for the three months to December of 15 days.

23. The average duration for negotiations shows a reduction from 275 calendar days, in the comparable three months in 2017/18, to 33 calendar days. However, the longer durations last year were due to a special exercise to clear out stock which added to the average durations. The current performance, although being more representative of the norm for negotiations, is 6 calendar days less than for the 3 months to the end of December.
24. The percentage of criminal accounts which were paid in full at the initial assessment, at 89%, was 1% higher than the comparable three months in 2017/18.

#### *Accuracy Results*

25. Accuracy in the three months was very good with 99% having been marked as a four. This is 2% higher than in the comparable period in 2017/18.

#### *Children's Accounts*

26. The overall three month position for children's shows the average durations for initial assessments at 25 calendar days which is 6 days slower than the comparable period in 2017/18.
27. As advised at the last Board this is due to staff resource issues created by a long term sickness absence which has a high impact in a small team. We are realigning our resources to strengthen the team however with this we anticipate that performance may therefore fluctuate over the next few months.
28. The average duration for negotiations improved from 39 calendar days, in the comparable three months in 2017/18, to 34 calendar days in the current three months.
29. The percentage of children's accounts which were paid in full at the initial assessment fell by 6% to 43%. The main reason for this was due to a change to Interim Compulsory Supervision Order (ICSO) hearings which meant that we had to go back to solicitors to clarify whether the hearings were opposed or varied for assessment purposes. There has been a slight improvement in the information now being provided with the accounts but there are still quite a few needing clarification. A communication will be issued to the profession to highlight the issue which should improve performance.

#### *Accuracy Results*

30. Accuracy in the three months was very good with 98% having been marked as a four (88% in the comparable period in 2017/18).

## APPLICATIONS

	CIVIL		SUMMARY		SOLEMN		CHILDRENS	
Calendar Days	2018/19	2017/18	2018/19	2017/18	2018/19	2017/18	2018/19	2017/18
First Decision Avg Duration	78	73	10.3	10.7	5.6	5.2	8.4	9.5
First Decision % Granted	68%	60%	81%	79%	86%	87%	79%	75%
Ratio of Further Work to First Decision	17%	24%	16%	18%	9%	8%	10%	11%

	CIVIL	
	2018/19	2017/18
Solicitor Satisfaction*	70%	
Accuracy (4)	100%	99%
Accuracy (2,3,4)	100%	99%

CRIMINAL	
2018/19	2017/18
70%	
99%	97%
99%	98%

CHILDRENS	
2018/19	2017/18
67%	
100%	97%
100%	99%

## ACCOUNTS

	CIVIL	
Avg Calendar days to bank	2018/19	2017/18
- Initial Assessments	27	20
- Negotiations	63	62
- Combined	31	25
Initial Assessments % paid in full	61%	61%
Ratio of Negotiations to Initial Assessments	14%	12%

CRIMINAL	
2018/19	2017/18
12	10
33	275
13	25
89%	88%
4%	6%

CHILDRENS	
2018/19	2017/18
25	19
34	39
27	22
43%	48%
30%	14%

	CIVIL	
	2018/19	2017/18
Solicitor Satisfaction	48%	
Accuracy (4)	95%	97%
Accuracy (2,3,4)	96%	99%

CRIMINAL	
2018/19	2017/18
68%	
99%	97%
99%	97%

CHILDRENS	
2018/19	2017/18
58%	
98%	88%
99%	97%

### NOTES:

2018/19 = 3 months to March 2019

2017/18 = 3 months to March 2018

#### Applications:

- % Granted = Num Grants / Total Num Decisions

- Civil comprise non-AWI cases only

#### Accounts:

- Solicitor accounts only

#### Solicitor Satisfaction:

- Civil applications and accounts figures are from Mar'19

- Criminal and childrens figures are from Aug-Sep 2018

Governance Links	
1	<p>Finance and Resources</p> <p>Resources are key to the delivery of good performance. This paper sets out a number of current resourcing challenges that we are dealing with across the applications and accounts departments.</p>
2	<p>Risk</p> <p><i>Applications</i></p> <p><i>This report gives assurance that we are managing the functional risks identified in relation to: (i) Failure to accurately assess applications and increases in accordance with SLAB's policies and procedures; and (ii) Failure to take operational decisions within agreed service standards.</i></p> <p><i>Accounts</i></p> <p><i>This report gives assurance that we are managing the functional risks identified in relation to: (i) Failure to pay solicitors within a timeframe that is acceptable to the profession and enables management of the Legal Aid Fund; and (ii) Inconsistent approach to assessment of accounts.</i></p>
3	<p>Legal and Compliance</p> <p>No issues of note.</p>
4	<p>Performance</p> <p>No issues of note.</p>
5	<p>Equalities Impact</p> <p>An impact assessment is not required for this paper.</p>
6	<p>Privacy Impact and Data Protection</p> <p>No privacy or data protection issues identified.</p>
7	<p>Communications and Engagement</p> <p>This paper has been agreed for publication and we are also publishing separate information regarding our performance via our website.</p>

### Conclusion and next steps

Members are asked to note the report.

### Appendices/Further Reading

Appendix 1 - Guide to the SLAB Operation Performance Overview Report (SOPOR)

## Appendix 1

### Guide to the SLAB Operation Performance Overview Report (SOPOR)

#### STRUCTURE

Information is grouped by operational area and type of measure. The top half reports on Applications areas: Civil; Treasury; Criminal and Children's, and the bottom half on Accounts areas.

The reporting period structure is split between:

- the current 3 month reporting period, i.e. the average of the last 3 months and;
- the average of the same period one year ago.

In Civil we are reporting on all case types except Adults with Incapacity cases. These are high in volume and we take decisions on these in a much shorter timescale because the statutory tests are more straightforward. These are not included to avoid a disproportionate impact on performance statistics.

In Criminal we report on summary and solemn cases separately: SL = Solemn cases; SC= Summary cases.

#### DESCRIPTION MEASURES IN SOPOR

All measures are calculated for the most recent 3 month period. This is compared with the same 3 month period a year ago to provide a benchmark. Comparing against a year ago removes seasonal effects.

##### Duration

The key duration shown for applications is the average time, in calendar days, from receipt of a main legal aid application by SLAB, to when we take the first official decision on it. This duration includes all weekends and holidays. It also includes any period where we are asking the solicitor, or applicant, for more information to help us take the decision.

This indicator measures both the workflow performance of SLAB but also the degree to which solicitors and applicants are managing to provide all necessary information.

Simply put **lower** is better.

In accounts the first instance duration is a very similar measure - it is from registration of the account to the date payment is received into the solicitor's bank account. It is in calendar days and again includes any period where we are asking the solicitor for more information to help us assess the account.

The negotiation duration is the same measure but for accounts that are follow-up accounts to negotiate sums that we have abated from initial accounts.



## Grant / paid in full rate

The first official decision on a legal aid application can be one of 3 main types: grant; refuse; or not consider due to lack of information. The percent granted measure is the number of grants divided by (i.e. indexed) by the total number of first decisions in the period and expressed as a percentage.

This indicator measures the effectiveness with which SLAB and the profession are facilitating solicitors to make appropriate and complete applications.

Simply put **higher** is better.

In accounts the equivalent measure is the percent of accounts that we are able to pay all that solicitors are claiming, i.e. without abating them.

‘Abatement’ describes the process by which the amount paid by SLAB includes one or more deductions from the amount claimed by a solicitor. This can occur for many different reasons. Subsequent negotiations with firms can result in part or all of the sum abated being reinstated, often because we are provided with further information that allows us to be satisfied that a claim is valid or reasonable. This can be additional information (such as vouching) to support a claim, or an explanation to justify a particular activity which had appeared to us on the face of it to be unnecessary, unreasonable or uneconomical.

SLAB needs to protect the Legal Aid Fund from unjustified expenditure; however this needs to be undertaken in a manner that is seen to be fair, transparent and done in a consistent and efficient manner.

Ultimately we will be using the information on what we finally pay against, the original lodged amount and the initial payment to understand how we can ensure more could be paid at the first instance.

## Ratio of Further Work (Negotiation) to First Decision (First Instance)

In applications this indicator is the number of cases requiring further work divided by the total number of first decisions in the period and expressed as a percentage. In accounts it is the number of negotiation accounts paid compared with the number of first instance accounts.

This indicator measures a number of different key elements of the process:

- a) the effectiveness with which SLAB is getting correct applications/accounts in the first instance;
- b) that SLAB is making correct decisions;
- c) the effectiveness with which SLAB is communicating those decisions.

Poor performance in any of those areas could result in an increase in this ratio.

Simply put **lower** is better.

<b>Report to:</b>	The Board
<b>Meeting Date:</b>	07 May 2019
<b>Report Title</b>	SLAB Administration - Finance and Resource Report
<b>Report Category</b>	For Information
<b>Issue status:</b>	Business as usual

<b>Written by:</b>	
<b>Director responsible:</b>	Director of Corporate Services and Accounts
<b>Presented by:</b>	
<b>Contact details:</b>	

<b>Delivery of Strategic Objectives</b>	
Select the Strategic Objective(s) relevant to the issues	2. to advise Scottish Ministers on strategic development of legal assistance and its contribution to Scotland in which rights are supported and disputes are resolved fairly and swiftly

<b>Link to Board or Committee Remit</b>
This paper is linked to the Board's role in monitoring the financial position of SLAB expenditure.

<b>Publication of the Paper</b>
The Board has previously agreed that this paper should be published as a matter of routine. It will be published on our website in due course.

<b>Executive Summary</b>
Expenditure for the year ended 31 <sup>st</sup> March 2019 is £11.6m

<b>Previous Consideration</b>	
<b>Meeting</b>	<b>Detail</b>
11 <sup>th</sup> February 2018 - SLAB/2019/05	The previous report showed expenditure and resources for December year to date.

## Report

### 1. Grant-in-Aid Funding

Core Scottish Government (SG) funding for 2018-19 was £11,320k. This is the same as 2017-18. The SG budget includes £100k of capital funding which cannot be transferred to staff or running costs. Core cash funding (after removing £550k of funding for Depreciation) is £10,770k. We are also allowed to retain £250k of superannuation receipts. Additional monies have also been added for pension costs above the £327k threshold bringing the total in year funding to £11,771k.

<b>Funding</b>	<b>2017-18 Actual</b>	<b>2018-19 Actual</b>
	<b>£k</b>	<b>£k</b>
Core SG Funding	<b>11,320</b>	<b>11,320</b>
Non cash funding for Depreciation	<b>(550)</b>	<b>(550)</b>
Retained superannuation receipts	<b>250</b>	<b>250</b>
Additional funding for Grant Funding Administration	<b>-<sup>1</sup></b>	<b>75<sup>1</sup></b>
Pensions funding (above £327k threshold)	<b>722</b>	<b>676</b>
<b>Total in year funding</b>	<b>11,742</b>	<b>11,771</b>

<sup>1</sup> In 2017-18 SG funding for Grant Funding - Rape Crisis (£20k) and MAW (£55k) was waived. SG agreed that this would be for 1 year only and the funding was made available again in 2018-19.

We receive additional grant-in-aid for any pension costs above £327k. Pension costs were £1,003k in 2018-19 so additional funding of £676k is included in the table above.

We are required to transfer to the Scottish Government any pension receipts (contributions and transfers in) over £250k. Actual pension receipts are set out in the following table.

<b>Pension contributions and transfers in</b>	<b>2017-18 Actual</b>	<b>2018-19 Actual</b>
	<b>£k</b>	<b>£k</b>
Pension receipts	425	439
Amount retained	250	250
<b>Amount returned to Scottish Government</b>	<b>175</b>	<b>189</b>

## 2. Grant-in-Aid Budgets and Expenditure

Department	Original Annual Budget	Revised Q1 Budget	Revised Q2 Budget	Revised Q3 Budget	Actual YTD	Budget YTD	Variance YTD	Variance YTD
	£k	£k	£k	£k	£k	£k	£k	%
Staff Costs	1,122	1,099	1,203	1,192	1,180	1,192	12	1.0
<sup>1</sup> Running Costs	31	29	1	(14)	(25)	(14)	11	(80.1)
Capital Costs	-	-	50	33	15	33	18	53.8
<b>Total Strategic Development</b>	<b>1,153</b>	<b>1,128</b>	<b>1,254</b>	<b>1,211</b>	<b>1,170</b>	<b>1,211</b>	<b>41</b>	<b>3.4</b>
Staff Costs	4,245	4,155	3,995	3,973	3,920	3,973	53	1.3
<sup>1</sup> Running Costs	1,118	1,315	1,368	1,497	1,711	1,497	(213)	(14.2)
Capital Costs	100	100	50	25	48	25	(23)	(92.0)
<b>Total Corporate Services</b>	<b>5,463</b>	<b>5,570</b>	<b>5,413</b>	<b>5,495</b>	<b>5,679</b>	<b>5,495</b>	<b>(183)</b>	<b>(3.3)</b>
Staff Costs	3,605	3,533	3,513	3,490	3,483	3,490	7	0.1
Running Costs	91	99	99	98	79	98	19	17.5
Capital Costs	-	-	-	-	-	-	-	-
<b>Total Operations</b>	<b>3,696</b>	<b>3,632</b>	<b>3,612</b>	<b>3,588</b>	<b>3,562</b>	<b>3,588</b>	<b>26</b>	<b>0.6</b>
Staff Costs	248	218	266	254	254	254	-	0.0
Running Costs	45	45	(14)	(45)	(49)	(45)	4	34.5
Capital Costs	-	-	-	-	-	-	-	n/a
<b>Total Legal Services</b>	<b>293</b>	<b>263</b>	<b>252</b>	<b>209</b>	<b>205</b>	<b>209</b>	<b>4</b>	<b>2.0</b>
<b>Total Staff</b>	<b>9,220</b>	<b>9,005</b>	<b>8,977</b>	<b>8,909</b>	<b>8,837</b>	<b>8,909</b>	<b>72</b>	<b>0.8</b>
<b>Total</b>	<b>1,285</b>	<b>1,488</b>	<b>1,453</b>	<b>1,536</b>	<b>1,715</b>	<b>1,536</b>		<b>(11.6)</b>
<b>Total Capital</b>	<b>100</b>	<b>100</b>	<b>100</b>	<b>58</b>	<b>63</b>	<b>58</b>	<b>(5)</b>	<b>(9.0)</b>
<b>TOTAL EXCLUDING PENSIONS</b>	<b>10,605</b>	<b>10,593</b>	<b>10,530</b>	<b>10,503</b>	<b>10,615</b>	<b>10,503</b>	<b>(112)</b>	<b>(0.9)</b>
Pension Costs	1,000	1,000	1,000	1,000	1,003	1,000	(3)	(0.0)
<b>TOTAL ADMIN</b>	<b>11,605</b>	<b>11,593</b>	<b>11,530</b>	<b>11,503</b>	<b>11,618</b>	<b>11,503</b>	<b>(115)</b>	<b>(0.9)</b>

1 Strategic Development and Corporate Services annual running costs budgets are net of £75k MAS income and £470k Thistle House sub-let income respectively. Legal Services running costs include income from an expenses award and a staff secondment to SG.

Total cash spend for the year ended March 2019 is £11,618k against the revised Q3 budget of £11,503, an overspend of £115k; however against the original Board approved budget we are only £13k overspent.

All available funds were drawn down from SG and the year end bank balance was £437k. This is an increase on the bank balance at the end of last year (£344k) but it is in line

with what we would generally carry over this period to cover contingencies and ongoing working capital requirements.

### 3. Variances to Quarter 3 budget

#### Strategic Development

- **Staff** - The £12k underspend was due to a vacancy which was not filled before year end.
- **Running** - Research fees were less than anticipated in the year.
- **Capital** - Work on the new website is well underway but the Q3 review had anticipated that more work would have been invoiced by financial year end.

#### Corporate Services

- **Staff** - There were several vacancies towards year end, these were partially offset by increased overtime costs for vacancy cover, resulting in a net £53k underspend.
- **Running** - Costs in Corporate Services were over budget by £213k. The additional spend was mainly IS costs for Civil Finance Form 2 and an extended renewal of the IS data centre contract.
- **Capital** - There was an overspend against the Q3 budget of £23k due to purchasing some new servers.

#### Operations

- **Staff** - There were several vacancies towards year end, which were partially offset by increased overtime costs and resulted in a £7k underspend.
- **Running** - The £19k underspend is mainly down to undertaking fewer credit searches whilst a GDPR review and related follow up work was carried out.

#### Legal Services

- **Running** - The £4k underspend is because legal fees have been lower than anticipated.

### 4. GIA Expenditure - Year on Year Comparison

	2017-18 Actual Spend	2018-19 Actual Spend	Variance
	£k	£k	£k
Total Staff	8,635	8,837	202
Total Running	2,184	1,715	(469)
Total Capital	106	63	(43)
<b>TOTAL EXCLUDING PENSIONS</b>	<b>10,925</b>	<b>10,615</b>	<b>(310)</b>
Pension Costs	1,080	1,003	(77)
<b>TOTAL ADMIN</b>	<b>12,005</b>	<b>11,618</b>	<b>(387)</b>

The table above shows actual expenditure for 2017-18 and 2018-19. Expenditure is not shown at directorate level as several departments/functions moved between directorates resulting in a number of offsetting variances. However, all of the main year on year variances in total expenditure are noted below:

**Staff Costs** - The £202k overall increase is due to the implementation of the annual pay remit. This cost has been partially offset by several staff (on the SNSIAPS project) moving to Fund payroll and a number of vacancies throughout the year.

**Running Costs** - The £469k reduction in spend is mainly due to large, one off, costs in 2017-18 for Oracle Cloud for Finance and the initial payments for Thistle House Bathroom works. There were also 2 large credits received in 2018-19, one for legal expenses awarded in our favour and we also achieved a rates rebate and were successful in lowering future rates bills.

**Capital Costs** - There were fewer capital requirements in 2018-19.

**Pension Costs** - These are broadly in line with the previous year but there was a small decrease in the value paid out for lump sums in 2018-19.

## 5. Invoice Turnaround Times

The table below shows full year invoice payment performance to 31 March 2019. This is reported for both 10 and 30 days, the former being our operational target and the latter being our normal contractual payment term.

Full year 2018-19 performance was 97% of invoices paid within 10 working days compared to 94% the previous year. 2018-19 is the first full year using Oracle Cloud Financials. Prior year numbers were affected by the implementation of the Cloud system, which resulted in full year performance falling to 94%.

For the Period 01-04-2018 to 31-03-2019				
Group	Full Year % Paid within 10 days		Full Year % Paid within 30 days	
	2018-19	2017-18	2018-19	2017-18
ADMIN	97%	93%	100%	98%
CLAO	97%	93%	99%	97%
PDSO	96%	96%	99%	99%
TOTAL	97%	94%	99%	98%

## HUMAN RESOURCES

### 6. Sickness Absence

The table below provides information relating to employee sickness absence for the year ended 31 March 2019:

Cumulative Summary	Days per Whole Time Equivalent (w.t.e.)				
	Actual to 31 Mar 2019	Target to 31 Mar 2019	Variance	L.Y. actual 31 Mar 2018	Variance
Self-Certified	2.6	3.0	0.4	2.8	0.2
Certified	5.7			5.5	-0.2
<b>TOTAL</b>	<b>8.4</b>			<b>8.3</b>	<b>-0.1</b>

Overall, Total absence performance was 8.4 days per w.t.e. Self-Certified absence levels were better than last year (2.6 days v. 2.8 days) and encouragingly better than the 3.0 days target. Certified absence (5.7 days) was impacted by a small number of long- term illnesses.

External comparisons for exactly the same time period are not yet published, but the closest dates currently available online show the following:

- The CIPD annual survey was conducted in partnership with Simplyhealth during November 2018. The analysis, published in April 2019 is based on replies from 1,078 organisations across the UK in reference to 3.2 million employees. This shows little change in public sector absence levels from the previous year at **8.4 days**.
- Scottish Government's cumulative quarterly figures show an average of 7.7 days per employee in the year up to December 2018.
- Scottish Government introduced a national standard which requires NHS Boards to achieve a sickness absence rate of 4% or lower. The NHS Scotland published data for the year to March 2018 which shows a sickness absence rate of **5.4%**.

Expressed as a percentage, our 8.4 days per w.t.e. would be 3.2%. So, SLAB's absence levels are significantly less than those of NHS Scotland; a bit higher than Scottish Government's and on a par with the CIPD survey group.

## 7. Leavers

The total number of leavers, including staff with contracts of less than 12 months, employed between 1 April 2018 and 31 March 2019 was 27 (7.6% of the average total number of staff)(LY 26 - 7.4%).

Thirteen leavers were from central administration; five were from CLAO; eight from PDSO; and one from SCL. All but one leaver left voluntarily, i.e. an overall staff turnover figure of 7.34% voluntary and 0.28% non-voluntary compared to 5.96% and 1.4% respectively in last year's figures up to 31 March 2018. We are satisfied that there is nothing problematic or unmanageable with this level of leavers, and the figures are within the bands of business unit expectation.

Of the voluntary leavers, 19% were retirements, with no noticeable pattern in relation to the grades or areas of work etc. The most common reasons for leaving amongst those who resigned was career progression.

	<b>Governance Links</b>
1	<b>Finance and Resources</b> No additional issues of note to report.
2	<b>Risk</b> Our work to monitor administrative expenditure enables us to mitigate corporate risk:  Risk 8: Pressure on the administration budget and being unable to manage within the budget.
3	<b>Legal and Compliance</b> No issues of note to report.
4	<b>Performance</b> No issues of note to report.
5	<b>Equalities Impact</b> An Equality Impact Assessment is not required for this paper.
6	<b>Privacy Impact and Data Protection</b> No privacy or data protection issues identified.
7	<b>Communications and Engagement</b> It has previously been agreed that this paper should be published.

<b>Conclusion and next steps</b>
<p>The Board is asked to note and comment on the report as necessary.</p> <p>Financial year 2018-19 ended in a good position, with spend broadly in line with expectations and a reasonable closing cash balance. This provides a relatively good base (taking comfort from recent scenario planning work) for moving into 2019-20 and we will consider the anticipated 2020-21 funding challenges in the coming months.</p>

<b>Appendices/Further Reading</b>
N/A



Report to:	The Board
Meeting Date:	7 May 2019
Report Title	Meetings with Outside Bodies
Report Category	For Information
Issue status:	Business as usual

Written by:	
Director responsible:	
Presented by:	
Contact details:	

Publication of the Paper
This paper does not contain information of a sensitive nature and should be published.

## Report

### SCOTTISH GOVERNMENT - JUSTICE

*Justice System Planning Group* - On 27 March Marie-Louise Fox attended a meeting of the Justice Systems Planning Group. This group shares and discusses intelligence on business volumes and trends across the justice sector.

*Justice Board* - On 28 March Colin Lancaster attended a meeting of the Justice Board. Agenda items included and update on Brexit planning and a presentation on Criminal Justice Transformation Mapping. This is an exercise that Scottish Government is undertaking to understand the full programme of transformation work currently ongoing across the justice sector.

*Independent Review of Legal Service Regulation* - On 16 April Colin Lancaster and Anne Dickson met with Jamie Wilhelm and Keiran Burke, Access to Justice Team, to discuss SLAB's views of the Report of the Independent Review of Legal Service Regulation, and specifically on the recommendations made on entity regulation.

*Justice Digital Strategy - Programme Direction Group* - On 24 April Colin Lancaster attended a meeting of the Justice Digital Strategy Programme Direction Group which oversees the progress against the digital strategy for the justice sector. The Agenda included discussion on the remit of the Programme Direction Group in the context of system level governance arrangements, and in relation to the Digital Evidence Sharing Capability.

### LAWYERS AND REPRESENTATIVE BODIES

*Criminal Quality Assurance Committee* - On 29 March Colin Lancaster chaired a meeting of the Criminal Quality Assurance Committee.

*Faculty of Advocates* - On 29 April Colin Lancaster met with Gordon Jackson QC, Dean of the Faculty of Advocates to discuss matters of mutual interest.

*Lord Justice Clerk's Review to improve the management of Sexual Offence Cases* - On 30 April Marie-Louise Fox attended the first meeting of the Lord Justice's Review Group set up to develop proposals to improve the system for managing sexual offence cases.

*Citizens Advice Scotland* - On 2 May Colin Lancaster had an introductory meeting with Polly Tolley, the new Director of Impact at Citizens Advice Scotland.

*Civil Quality Assurance Committee* - On 4 April Graeme Hill and Jennifer Laughland attended a meeting of the Law Society's Civil Quality Assurance Committee. Graeme, Jennifer and Marie-Louise Fox also attended a meeting of the Committee on 2 May.

*Sheriff Principal North Strathclyde* - On 3 May Colin Lancaster met with Sheriff Principal Duncan Murray to discuss matters of mutual interest.

## **JUSTICE SECTOR BODIES**

*Scottish Civil Justice Council - Personal Injury Committee* - On 1 April Marie-Louise Fox attended a meeting of the Scottish Civil Justice Council's Personal Injury Committee.

*Mental Welfare Commission, Children's Hearings Scotland and SLAB Steering Group* - On 5 April Graeme Hill (chaired) and Colin McKinnell attended the Steering Group meeting with representatives of the Mental Welfare Commission and Children's Hearings Scotland on the progress of sharing accommodation on the third floor of Thistle House.

## **PUBLIC BODIES**

*NDPB Chief Executives Forum* - On 27 March Colin Lancaster attended a meeting of the NDPB Chief Executives Forum. Agenda items included Pay Policy Process, Mentoring/Peer support for Senior Teams, Budget allocations and process, Shared Services, an update from the Scottish Government, an update on Digital Transformation & Role of the Digital Directorate and an update on Brexit/No deal Exit Planning.

## **OTHER MEETINGS**

*JCC Union Meeting with the Union* - On 26 March Graeme Hill attended a meeting with the Joint Consultative Committee with the Union to discuss SLAB's Pay negotiations.

*Public Records (Scotland) Act - Edinburgh PR(S)A Surgery* - On 26 March 2019 Graeme Hill attended a conference aimed at those responsible for implementing the PRSA within their organisations. There were opportunities to liaise with other professionals on a number of topics including the launch of the new Records Management Plan, the Progress Update Review and continuous improvement process and digital preservation. There were also a number of workshop sessions on other related topics.