

Scottish
Legal Aid
Board

CORPORATE PLAN

2020-23

Contents



	PAGE
Who we are and what we do	3
How we use the Legal Aid Fund	4 - 5
A word from the Chair: Planning in uncertain times	6
A word for the Chief Executive: A continuing journey to operational excellence	7-8
Corporate Plan Building Blocks	9-10
The Journey Ahead:	
> Our focus on internal excellence	11
> Developing our role in the delivery of legal aid policy and reform	12
> Developing our role in the delivery of wider Scottish Government outcomes	13-14
> Our public sector equality duty	14
> Challenges in the wider justice system	15
> The contribution of our people to this plan	15-16
Delivering the Plan:	
> Strategic Objective 1 – Deliver	17
> Strategic Objective 2 – Embed	18
> Strategic Objective 3 – Engage	19

Who we are and what we do



The Scottish Legal Aid Board (SLAB) is the national funding body for most solicitor and advocate delivered publicly funded legal services. SLAB is a Non-Departmental Public Body (NDPB) of the Scottish Government and was established in 1987.

The Scottish Government is responsible for the overall direction of legal aid policy, which finds expression in rules and regulations which form an extensive and complex body of legal aid legislation. This is the foundation of the various legal aid schemes established in our primary legislation, the Legal Aid (Scotland) Act 1986.

Legal aid in Scotland is primarily designed around case by case funding for services provided by solicitors and others instructed by them, such as advocates and experts, to help people resolve problems by negotiation or in a court or tribunal.

SLAB's core role is to assess applications for funding against eligibility tests set out in the legislation, relating to both the case and the applicant's finances, and to assess accounts submitted by solicitors and counsel for payment for the work they have done.



How we use the Legal Aid Fund



We manage the Legal Aid Fund and use it to pay for the services we support.

It is financed mostly by the Scottish Government, but some funding also comes from contributions paid by some of those who received services, expenses paid by the other side in successful cases and repayments out of amounts won or kept by people supported by legal aid.

Demand led funding

Funding for legal aid cases is demand led. This means that the decisions we make on eligibility and payment are made irrespective of any budgetary provision and the Scottish Government must make funding available if required to pay for services covered by the legal aid schemes.

Most expenditure from the Legal Aid Fund is paid on a case by case basis, known as **judicare funding**. The vast majority of **judicare** services are delivered through the private sector, although the third sector also delivers

case by case services on a smaller scale.

The Legal Aid Fund also supports casework services provided by our own in-house legal services and a small amount of funding provides direct grants for projects to deliver targeted legal services.

Finally, the Legal Aid Fund meets some supporting expenditure such as the accreditation scheme for advice agencies and peer review of solicitor legal services.

Judicare Funding

The nature of **judicare** funding is that it is unplanned and largely non-targeted. It is distributed via payment schemes (civil legal assistance, criminal legal assistance and children's legal assistance) which are not readily directed towards specific needs. It pays for legal services provided by solicitors and advocates to people who are eligible, for cases that are eligible for funding.

We apply tests, contained in our statutory framework to determine a person’s or case’s eligibility.

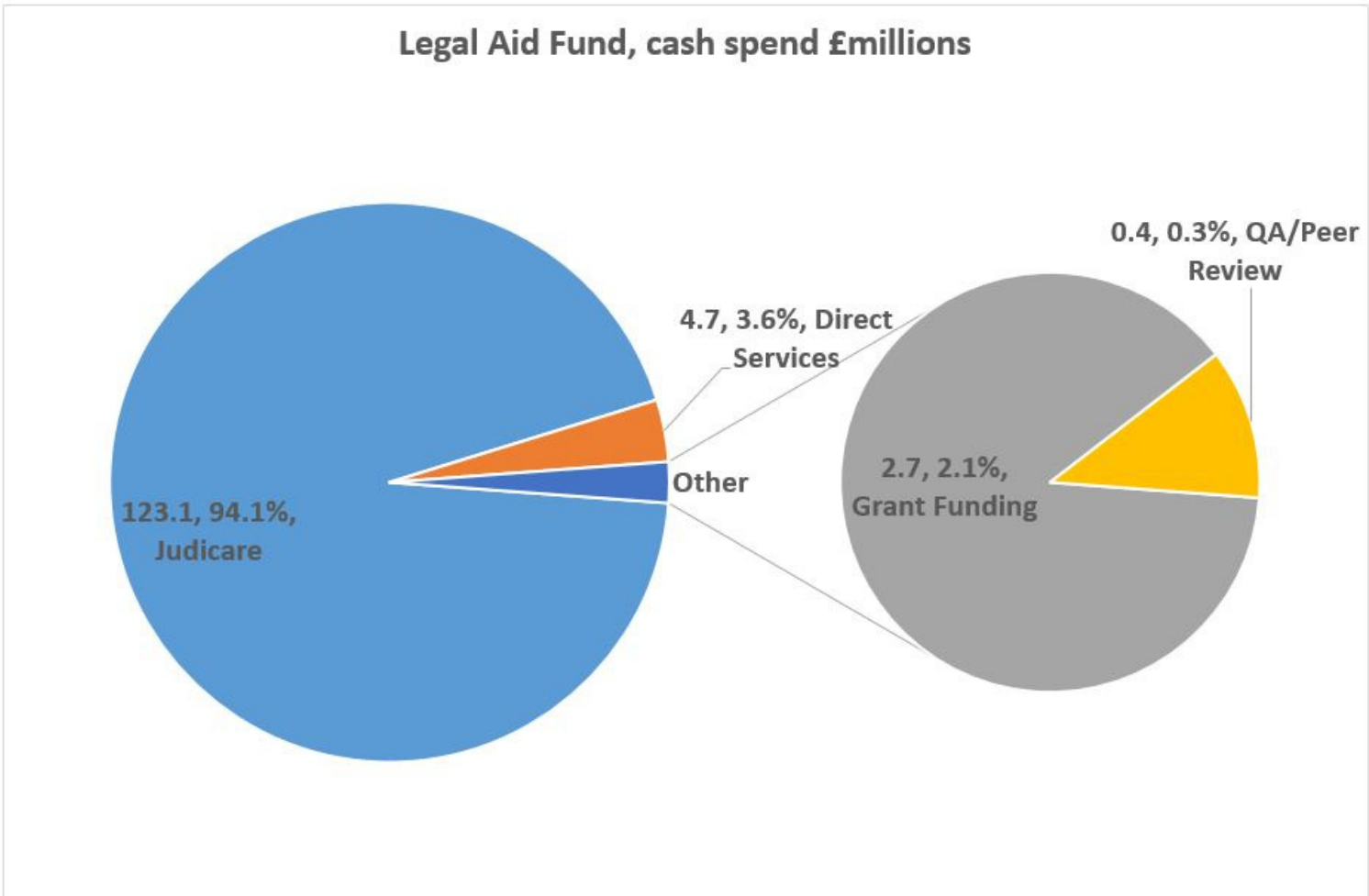
In 2019-20, 733 solicitor firms received a legal aid payment for providing services to the public. Legal services will include a mix of advice and representation.

The funding can also pay for other services such as experts’ reports and mediation if required. In any given year we estimate that around 2% of the population access legal aid.

Direct Services

The Legal Aid Fund also pays for the running costs of our direct services which comprise the Public Defence Solicitors’ Office, the Solicitor Contact Line and the Civil Legal Assistance Office.

Our direct services provide legal services to the public, using the same eligibility tests that apply to all other applicants.



Planning in uncertain times

RAY MACFARLANE, CHAIR

**“ USER FOCUS, EXEMPLARY PUBLIC SECTOR
DECISION MAKING, AND GOOD GOVERNANCE
GUIDE US IN ALL THAT WE DO ”**



We are in unprecedented times. The last six months have seen us managing the impact of a global health pandemic on our staff, our operations and those who depend on the services we deliver and fund. During this period, the Board and the Executive's priorities have been the health and wellbeing of our people and the continued operation of the legal aid system.

We head into this new corporate planning period during a time of great uncertainty. We do not know the future impact of Covid-19 on our staff, the public finances or the wider justice and public service landscape.

Nor is it yet clear what the impact has been or will be on those who may need the services we fund, or the solicitors, advocates, experts and others that deliver or support those services.

We are committed to delivering a programme of work to improve our capacity and capabilities in this challenging environment.

We will continue to work closely with the Scottish Government on its existing programme of legal aid policy reforms.

If those reforms result in a more strategic role for us, I am confident that the journey we started in 2017, and continue in this plan, will ensure that we are well placed to take on those challenges.

There will no doubt be unexpected issues that will materialise during the period of this corporate plan.

The Board has an important role in challenging the organisation to ensure that whilst taking forward the programme of work set out in this plan and in responding to any other challenges, the themes of user focus, exemplary public sector decision making, and good governance guide us in all that we do.

A handwritten signature in black ink, appearing to read 'Ray MacFarlane'.

A continuing journey to operational excellence

COLIN LANCASTER, CHIEF EXECUTIVE

“OUR CONTINUED MANAGEMENT OF THE LEGAL AID SYSTEM WILL PROVIDE FAIR AND TRANSPARENT ACCESS TO FUNDING TO SUPPORT THE EXERCISE AND PROTECTION OF PEOPLE’S RIGHTS”



There is no doubt that Covid-19 and our response to it has impacted this plan and will continue to do so. The first six months of the planning period have been almost exclusively spent dealing with the impacts on our organisation, the services that we deliver and support, and we know that public health controls are likely to be with us for some time yet.

The early part of this plan will see us considering the future shape of our organisation in the aftermath of Covid-19, with the aim of delivering our services in a way that is responsive to people’s needs and resilient to the impacts of operational constraints and future social and economic change.

When speaking to people during the development of this plan, the importance of fairness and transparency in access to legal aid funding were themes they considered to be important. These drive our vision for this

corporate plan and are woven into the strategic objectives that our Board has set. These objectives continue the theme of our journey to organisational excellence which we started in 2017.

Building blocks of plan

This plan is built on a number of important building blocks which will help deliver our vision.

Our **mission** describes SLAB’s purpose: what we are here to do. We have also set a number of **corporate values and principles** that shape our behaviour and actions which will be built into both our day to day work and the specific activity we deliver as part of this plan. Finally, our **strategic objectives** set out what we will do to achieve our vision.

We will continue to focus on improving the way that we design our services, impact assess the policies and procedures that govern our work and ensure that the

decisions we take are consistent, proportionate and transparent. In doing so, our clear focus will be on the impact of what we do on the people that access our services.

Our project, Guidance on the Administration of Legal Assistance (GALA), will be the most important way in which we will deliver this, alongside further development of aspects of our corporate governance, our continued contribution to the Scottish Government's response to the legal aid review and the delivery of specific equalities focussed initiatives.

Risks and challenges

Delivering a plan such as this will always come with its risks and challenges. We are a small organisation, with the vast majority of our staff resource allocated to keeping the wheels of the legal aid system turning through the assessment of applications and payment of accounts.

We have a much smaller resource to dedicate to our internal improvement work. This means that significant changes in the external environment, such as substantial reforms to the justice system or the current health pandemic, can divert our scarce resources and push things off track.

Our administrative funding has been largely static for many years. We have coped with this by digitising a range of our processing, releasing efficiencies in our running costs and, most significantly, carefully managing naturally arising vacancies and limiting recruitment wherever this is consistent with the continued delivery of a high quality service.

However, the scope for further cost reductions in any of these areas is reaching its limit and any further pressure to find savings on our running costs could impact on the delivery of this plan.

Priorities

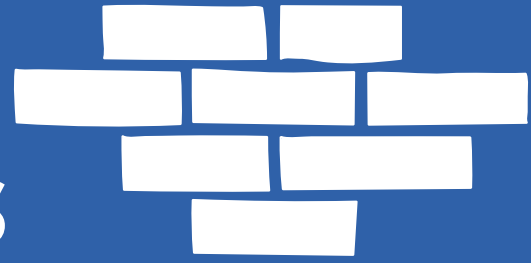
Our priorities over the coming period are to deliver a high quality and user focussed service and further embed ways of working across the organisation that enhance the quality and consistency of our decision making and delivery.

In doing so, our aim is to not only deliver the best service we can but also instil confidence in those we work with and for that everything we do is directed towards delivering positive outcomes.

Both are clearly important given the job we do now, but could take on even greater significance during the period covered by this Corporate Plan should the Scottish Government's plans for legal aid reform see us asked to take on different, possibly more strategic functions.



Corporate plan building blocks

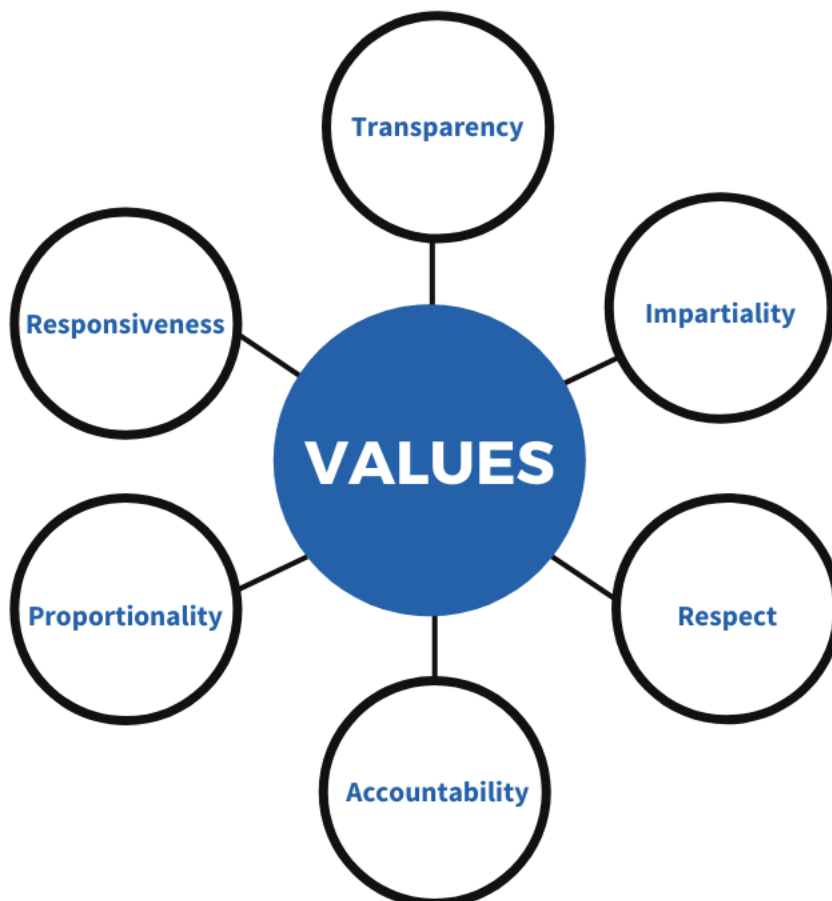


VISION

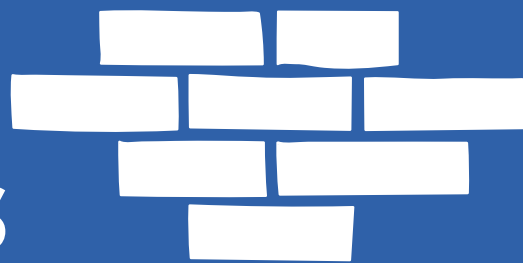
The people of Scotland are confident that we provide fair and transparent access to funding for services that support the exercise and protection of their rights.

MISSION

To fund and deliver services that enable people to enforce and protect their rights, defend themselves and manage their personal affairs and relationships.



Corporate plan building blocks



PRINCIPLES

- We promote equality and diversity in our workforce and support our people to deliver their best
- We understand the impacts of the work we do and the way we do it
- We are customer focussed
- We collaborate with the justice and wider public sector
- We seek continuous improvement in all our work

STRATEGIC OBJECTIVES



1

Deliver a high quality user focussed service

2

Embed ways of working across the organisation that enhance the quality, consistency and transparency of our decisions and delivery

3

Engage with users and delivery partners across the legal aid and justice system to inform good design of our system and services

The journey ahead

We started a programme of transformation three years ago. This corporate plan is built on those themes of transforming how we manage legal aid and being prepared for the future.



Our focus on internal excellence

In 2017, we set a fresh mission to transform how we deliver our functions and embarked on an important programme to strengthen our decision making systems and processes. The aim was to make it easier for us to carry out our role, easier for solicitors to work with us, and easier for the public to understand what they can expect from legal aid and navigate the process. We have made good progress.

Operational Performance

The way we measure and publish information on our operational performance has changed, which has been pivotal to our transformation work. We have moved the focus of our performance in the processing of applications and accounts to measuring the time taken for the whole process as experienced by applicants and solicitors.

Risk

We have also changed our approach to the way we manage risks, an important part of which has been to articulate what risks we are prepared to take and those which we are not. This has enabled a better focus on outcomes rather than processes and encouraged a more innovative approach to service delivery. It has also resulted in us changing policies where, on assessment of risk through this new lens, we

have considered the impact of action taken to manage a risk to be disproportionate to the possible adverse event itself. Most recently, this new approach assisted us as we managed and responded to Covid-19.

Change Programme

We have developed, and are now well underway with, a major multi-year change programme, the Guidance on the Administration of Legal Assistance (GALA) programme, which aims to improve our internal decision making framework, ensuring the consistency and transparency of our decision making in applications for legal aid funding and payment of accounts.

We have developed a policy framework as the central organising structure for our future decision making, which aims to review around 160 separate types of decision. This will form the backbone of this corporate plan and is an opportunity to review our operational policies. We will review how we apply the rules set out in the legislation and regulations, and our guidance and training for solicitors and our own decision makers.

By improving the clarity of our decision making, we will enhance the visibility and accountability of our actions.

The journey ahead

Developing our role in the delivery of legal aid policy and reform

Legal aid and wider justice system policy is the responsibility of the Scottish Government, and where legislative change is required, the Scottish Parliament. Where policy or legislative changes are made, we must then identify, develop and deliver any modifications to our procedures needed to implement that change.

We also have an important role in advising on the impacts of both the current system and potential changes on the people that receive, or could receive, our funding and on wider Scottish Government outcomes.

Advise on different legal aid models

Our response to the Scottish Government's legal aid review consultation in summer 2019 set out a range of different legal aid models that the Scottish Government could adopt to meet the aims set out in the review. We will continue to advise and assist the Scottish Government with the continued development of their response to the review.

The level of resource this will require is currently unclear – it will depend on the degree of change that is pursued and whether primary legislative change will be necessary for some of the further reaching reforms

included in the consultation. Not all developments in the operation of legal aid or the outcomes it delivers need flow from legislative or Scottish Government policy change.

Review our policies and processes

Our own decisions about how we apply the rules and the processes we put in place can also have a significant impact and have potential to change how the operation of the system contributes to the Scottish Government's policy objectives for legal aid.

In the coming period we will continue the ongoing process of reviewing our policies and processes: improvements in our governance and decision making will continue to more explicitly align our policy decisions about how we manage the system with the Scottish Government's objectives.

We will develop our potential to play a strategic role as the legal aid system develops. Developing this awareness of our impact, our responsiveness and our capabilities for strategic change in this way will demonstrate our potential to play a key strategic role as the legal aid system develops in line with Ministers' decisions.

Developing our role in the delivery of wider Scottish Government outcomes

As a public body we have a range of statutory duties and functions. The extent to which our performance of these can or does contribute to wider Scottish Government outcomes and the National Performance Framework (NPF) is dependent on our specific role and the extensive and complex body of current legal aid legislation. This legislation is the foundation of the various legal aid payment schemes that we administer.

Pattern of funding requests

The majority of expenditure from the Legal Aid Fund is judicare funding to provide case by case services. The nature of the current legal aid legislation means that this judicare funding is unplanned and largely non-targeted.

This legal aid expenditure and the services it supports can be seen as contributing in a broad sense to the NPF: in particular, respect for the rule of law – one of the three guiding values in the NPF – and the national outcome that people respect, protect and fulfil human rights and live free from discrimination.

However, the mostly unplanned pattern of funding requests and services delivered

means that resources cannot be more purposely directed towards meeting any specific Scottish Government priority. That current pattern is determined by a combination of members of the public deciding whether to seek help and hundreds of predominantly small firms of solicitors in the private sector deciding whether or not to offer a particular kind of service, to act for a person if they ask for assistance and, if so, whether to do so on legal aid.

Contribution of legal aid to wider outcomes

Each decision by a person to seek help, by a solicitor to offer a service and by SLAB to provide funding means that someone can access an important service. That is of course a positive outcome for each person, and one that contributes to the NPF in a general sense.

In the absence of any ability for either us or Scottish Government to make a conscious decision to direct resources towards specific needs, individuals or strategic priorities, it is less clear whether this process maximises the contribution of legal aid to the delivery of wider outcomes.

The Legal Aid Review outcomes suggest a more strategic role for SLAB in directing some funding towards particular types of problems, geographic areas or communities, which could enhance both legal aid's and SLAB's contributions to the NPF. This of course is a matter for Ministers and, ultimately, Parliament.

We will continue to use the limited levers we have to maximise the legal aid system's contribution to wider Scottish Government outcomes. We can go some way to target the Legal Aid Fund that supports our in-house

solicitors in their delivery of casework services to the public, and in the development of grant funding schemes in conjunction with the Scottish Government.

The programme of work set out in this plan will ensure that the way we do this is transparent, based on a sound understanding of user needs and the impact of how we deliver our services to them, and enhances our accountability for the funds we manage.

Our public sector equality duty

At the heart of the payment schemes we administer is the enabling and protection of civil, political, social and human rights. Equality and diversity is therefore a key principle for us in the delivery of our functions.

In line with our focus on organisational and operational excellence, we recognise we can do more in this area. We have recently been engaging with the Equalities and Human Rights Commission (EHRC) about how we approach our equalities work.

A positive opportunity

In particular we have focused on when and how we assess the impacts of our decisions, policies and procedures on those with protected characteristics and how we can best use this process to fulfil our public sector equality duties.

We will work closely with the EHRC over the first half of this corporate plan to improve our impact assessment practice and the mainstreaming of equality. This joint work is a positive opportunity to improve our work in this area, move us into a position of good practice and develop a close, constructive relationship with the EHRC.

As part of the GALA programme, we aim to make the link between our decision making and our public sector equality duties more explicit, visible and thus improve opportunities for others to hold us accountable.

To support that we are also developing changes to the collection of data in our application systems to encourage greater disclosure of equalities characteristics by applicants.

Challenges in the wider justice system

The justice system as a whole is currently dealing with its response to the Covid-19 challenges.

In particular, the Recover, Renew, Transform strategy is aimed at creating a sustainable and resilient model for the operation of police custody, the courts, prisons and community justice in a post Covid-19 environment, within

public health guidelines and which can manage both ongoing business and the significant backlog that has already built up.

We will be an important partner in the delivery of that strategy. Again, this will require our senior resource to work closely with justice system partners.

The contribution of our people to this plan

This plan has been designed to galvanise our staff behind our mission and vision. Through the work we will do to deliver the objectives it sets out, our staff will develop and demonstrate the range of skills, experience and approaches needed to design, manage and deliver services in a range of ways.

These will be key if the Scottish Government decides that a more strategic legal aid body is needed to oversee a more diverse range of approaches to future service provision, in addition to judicare, as envisaged by the Legal Aid Review.

If Ministers decide not to develop the legal aid system in that way and our range of functions remains as at present, this plan will

strengthen our management of the legal aid system: exemplifying the best in public sector decision making and service delivery.

Shift in scope of work

Our People Strategy, which was approved by the Board in June 2019, incorporated a range of workstreams designed to enable and empower our staff to deliver to their full potential.

This was centred on analysis of our current and future skills needs as a first step towards a review of job design, job evaluation and grading structures and training and recruitment to support the development of an overall future workforce plan.

Covid-19 has resulted in a significant shift in the scope of work we are able to take forward at this time to deliver the people strategy and has also impacted on our approach to workforce planning, at least for the near future.

Not only have key staff working on the strategy been diverted to managing our response to Covid-19, but the pandemic itself and associated restrictions is having a significant effect on how we deliver our services and utilise our workforce. At least some of these impacts are also likely to have implications for our future delivery and workforce planning.

Future delivery and workforce planning

Elements of the strategy will therefore now be delivered through our Designing a New Working Environment project (DANWE).

Other aspects will be delivered through a review of our suite of HR and other people-related policies, which will include changes prompted both by our developing working environment and also a comprehensive review of the equalities impacts of our existing or new policies.

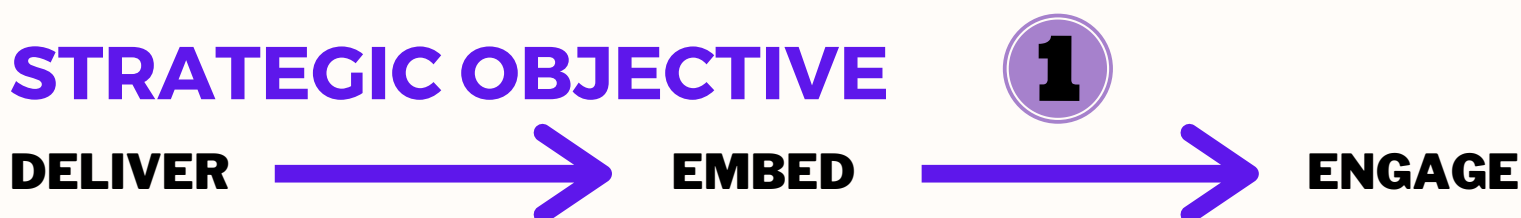
Our GALA project will also directly impact on our approach to developing the potential of our staff, including shortening training timeframes and enhancing their ability to move more easily between roles. Workforce planning will remain a key focus of our people related work from skills, capabilities and financial viewpoints, and we will prioritise this once we have reached conclusions on the

shape of our new working environment.

As we develop and adapt to that new working environment and review our people policies, the key themes from the people strategy will guide our decision making as we seek to:

- Attract the right calibre of people to help us fulfil our purpose and deliver our strategic objectives
- Develop people with the right mix of hard and soft skills to meet the current and future opportunities and challenges facing SLAB
- Retain people to ensure continuity of service and the sharing of knowledge and expertise
- Reward people fairly through a combination of intrinsic and extrinsic benefits
- Empower our people to bring out the best in themselves and the best in SLAB

Delivering the plan



We **deliver** a high quality user focussed service

This objective is about building the delivery of our services around an understanding of what applicants for legal assistance need. We will develop specific policies and plans with our users in mind. The range of work that we deliver across all our strategic objectives will lead to improvements in our operational performance.

How we will deliver this objective

- Demonstrate an improvement in our operational performance through our SLAB Operational Performance Overview Report
- Develop and deliver new business plans for the Civil Legal Assistance Office and Public Defence Solicitors' Office. This will include a review of the services' strategic objectives and consideration of how best to align the design of direct services with our vision
- Develop and implement a new SLAB customer service policy which has our corporate values as a core theme
- Review our complaints policy and reporting to inform service improvement and design
- Implement a customer communication support policy to provide a more consistent approach to reasonable adjustments to our customers
- Implement a structured approach to collating and using solicitor feedback to inform service improvement and design
- Build the needs of users into the design of our IT systems and infrastructure
- Build the needs of users into any future design of our grant funding programmes

How we will measure our success

- SLAB Operational Performance Overview Report with data published on our website on a quarterly basis
- Performance measure on responding to a range of correspondence within relevant timescales
- Performance measure on the payment of goods and services to our suppliers
- Performance measure the numbers of justified complaints we receive about our service
- Carry out survey and feedback work with applicants and their solicitors

STRATEGIC OBJECTIVE

2

DELIVER



EMBED



ENGAGE

We **embed** ways of working across the organisation that enhance the quality, consistency and transparency of our decisions and delivery

This objective is about improving the consistency and transparency of our decision making, meaning that it will be easier for people to anticipate and understand our decisions and to tell us if they think we've got something wrong.

We will provide people with a simple explanation of how we manage the legal aid system, increasing their ability to hold us to account.

Our project work under this objective will review a range of our policies and operational processes with the aim of making them simpler, appropriately impact assessed and with a closer alignment to our Board's approach to risk.

How we will deliver this objective

- Develop, implement and publish our full suite of policy statements, impact assessments and internal decision makers' guidance for all application and accounts decision sets
- Review, impact assess and refresh key people policies which guide decisions on recruitment, homeworking and flexible working arrangements as part of our redesign of the working environment in response to Covid-19
- Develop and implement an equalities data collection policy for the three direct services - Civil Legal Assistance Office (CLAO), Public Defence Solicitors' Office (PDSO) and Solicitor Contact Line (SCL)
- Implement a new management data reporting tool
- Develop monitoring metrics which capture equality impacts
- Develop our legal aid online system to encourage better equalities monitoring data from our applicants

How we will measure our success

- Carry out survey and feedback work with applicants, their solicitors and our staff
- SLAB Operational Performance Overview Report with performance data published on a quarterly basis
- Monitor and evaluate our key project work as it progresses



We **engage** with users and delivery partners across the legal aid and justice system to inform good design of our system and services

This objective is about our engagement with the themes in the review of legal aid. What we are able to deliver will align with Scottish Government’s policy direction for legal aid. Our key priorities under this objective are our work on reviewing our approach to financial assessment, making more explicit the rules for assessment of fees, and working with others to develop advice for Scottish Government on fee and eligibility structures, which are both fair and easier to understand and operate.

A focus on users and good understanding of their needs is a key part of delivering this objective, but it is also about our engagement with other parts of the justice system on the legal aid implications of their policies, procedures and reforms, or the impact of legal aid changes on other parts of the system. We will engage with others where we have an interest and always with a view to protecting the interests of users of legal aid, including by pressing for consideration of user needs and appropriate impact assessment in any justice reform process.

How we will deliver this objective

- Constructively engage with the Criminal Justice Board’s Recover, Renew, Transform programme
- Continue to contribute to the Scottish Government’s Legal Aid Payment Advisory Panels
- Develop proposals for fee reforms in consultation with others, and implement them dependent on Scottish Government priorities
- Consult on proposals to amend our approach to the Interest of Justice Test in summary criminal legal aid cases and implement changes based on the responses to the consultation
- Review our approach to the assessment of applicants’ financial eligibility in legal aid cases
- Use lessons learned from our approach to dealing with Covid-19 to inform future design of our internal operations and the legal aid schemes
- Work with the Scottish Government and others to inform the next phase of grant funding

How we will measure our success

- Carry out survey and feedback work with applicants and their solicitors
- Measure the impact of any changes to our financial testing procedures on the completion of financial assessments and the time it takes
- Engage with the Scottish Government and other justice partners to evaluate the effectiveness of our engagement

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