

Scottish Legal Complaints Commission

2022/23 Annual Audit Report



 AUDIT SCOTLAND

Prepared for the Scottish Legal Complaints Commission and the Auditor General for
Scotland

November 2023

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Key messages

2022/23 annual report and accounts

- 1 Audit opinions on the annual report and financial statements are unmodified.
- 2 Key risks arising from the audit of the Scottish Legal Complaints Commission were detailed in our Annual Audit Plan presented to the April 2023 Audit Committee. There are no significant matters from that work.
- 3 Good support was provided by finance staff, particularly the Director of Business Performance who provided prompt responses to audit queries.

Wider-scope

- 4 The Scottish Legal Complaints Commission operated within its agreed budget for 2022/23.
- 5 The Scottish Legal Complaints Commission has effective and appropriate arrangements in place to continue to deliver services.
- 6 Disclosures in the Governance Statement are consistent with the financial statements and the statement has been prepared in accordance with the relevant statutory guidance.
- 7 The Scottish Legal Complaints Commission has a medium-term financial plan covering 2022-2028. This will require updating in light of the recent office move.
- 8 Potential reform of SLCC is highly likely although no final decisions have been made. SLCC recognises a range of risks which may affect the organisation as reform progresses.

Introduction

1. This report summarises the findings from the 2022/23 annual audit of the Scottish Legal Complaints Commission. The scope of the audit was set out in an Annual Audit Plan presented to the April 2023 meeting of the Audit Committee. This Annual Audit Report comprises:

- significant matters arising from an audit of the Scottish Legal Complaints Commission annual report and financial statements
- wider scope areas that frame public audit as set out in the [Code of Audit Practice 2021](#), which for less complex bodies includes conclusions on financial sustainability

2. This report is addressed to the Scottish Legal Complaints Commission and the Auditor General for Scotland and will be published on Audit Scotland's website www.audit-scotland.gov.uk in due course.

Audit appointment from 2022/23

3. I, Helen Russell, have been appointed by the Auditor General as auditor of the Scottish Legal Complaints Commission for the period from 2022/23 until 2026/27. The 2022/23 financial year was the first of my five-year appointment. My appointment coincides with the new [Code of Audit Practice](#) (the Code) which was introduced for financial years commencing on or after 1 April 2022.

4. My team and I would like to thank audit committee members, the senior management team and particularly staff in finance, for their cooperation and assistance in this year and we look forward to working together constructively over the course of the five-year appointment.

Responsibilities and reporting

5. The Scottish Legal Complaints Commission has primary responsibility for ensuring the proper financial stewardship of public funds. This includes preparing an annual report and accounts that are in accordance with the accounts direction from Scottish Ministers. The Scottish Legal Complaints Commission is also responsible for compliance with legislation putting arrangements in place for governance, propriety and regularity.

6. The responsibilities of the independent auditor are established by the Public Finance and Accountability (Scotland) Act 2000 and the [Code of Audit Practice 2021](#) and supplementary guidance and International Standards on Auditing in the UK.

7. The weaknesses or risks identified in this report are only those which have come to our attention during our normal audit work and may not be all that exist. Communicating these does not absolve management from its responsibility to address the issues we raise and to maintain adequate systems of control.

Auditor Independence

8. We can confirm that we comply with the Financial Reporting Council's Ethical Standard. We can also confirm that we have not undertaken any non-audit related services and therefore the 2022/23 audit fee of £17,150 as set out in our 2022/23 Annual Audit Plan remains unchanged. We are not aware of any relationships that could compromise our objectivity and independence.

9. We add value to the Scottish Legal Complaints Commission by:

- identifying and providing insight on significant risks, and making clear and relevant recommendations
- sharing intelligence and good practice identified.

Part 1. Audit of 2022/23 annual report and accounts

Public bodies are required to prepare annual report and accounts comprising financial statements and other related reports. These are principal means of accounting for the stewardship public funds.

Main judgements

Audit opinions on the annual report and financial statements are unmodified.

Key risks arising from the audit of the Scottish Legal Complaints Commission were detailed in our Annual Audit Plan presented to the April 2023 Audit Committee. There are no significant matters from that work.

Good support was provided by finance staff, particularly the Director of Business Performance who provided prompt responses to audit queries.

Audit opinions on the annual report and are unmodified

10. The board approved the annual report and accounts for the Scottish Legal Complaints Commission for the year ended 30 June 2023 on 27 November 2023. The annual report and accounts were signed by the Accountable Officer on 28 November 2023. As reported in the independent auditor's report, in my opinion as the appointed auditor:

- the financial statements give a true and fair view and were properly prepared in accordance with the financial reporting framework
- expenditure and income are regular and in accordance with applicable enactments and guidance
- the audited part of the remuneration and staff report, performance report and governance statement were all consistent with the financial statements and properly prepared in accordance with the relevant legislation and directions made by Scottish Ministers.

Overall materiality was assessed on receipt of the annual report and accounts as £78,000

11. Our initial assessment of materiality was carried out during the planning phase of the audit. This was reviewed and revised on receipt of the unaudited

annual report and accounts and is summarised in [Exhibit 1](#). This had no impact on our audit approach.

Exhibit 1

Materiality values

Materiality level	Planning	Final
Overall materiality	£77,000	£78,000
Performance materiality	£54,000	£55,000
Reporting threshold	£4,000	£4,000

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12. Broadly, the concept of materiality is applied by auditors to determine whether misstatements identified during the audit could reasonably be expected to influence the economic decisions of users of the accounts, and hence impact their opinion set out in the independent auditor's report. Auditors set a monetary threshold when considering materiality, although some issues may be considered material by their nature. It is ultimately a matter of the auditor's professional judgement.

13. The overall materiality threshold was set with reference to gross expenditure, which we judged as the figure most relevant to the users of the financial statements.

14. Performance materiality is used by auditors when undertaking work on individual areas of the financial statements. It is a lower materiality threshold, set to reduce the probability of aggregated misstatements exceeding overall materiality. Performance materiality was set at 70% of overall materiality, reflecting the absence of significant audit findings and control weaknesses identified in prior years.

15. It is our responsibility to request that all misstatements, other than those below our reporting threshold, are corrected, although the final decision on making the correction lies with those charged with governance.

Significant findings and key audit matters

16. Under International Standard on Auditing (UK) 260, we communicate significant findings from the audit to those charged with governance, including our view about the qualitative aspects of the body's accounting practices.

17. The Code of Audit Practice also requires all audits to communicate key audit matters within the annual audit report under International Standard on Auditing (UK) 701. These are matters that we judged to be of most significance in our audit of the financial statements.

18. The significant findings and key audit matters are summarised in Exhibit 2.

Exhibit 2

Significant findings and key audit matters from the audit of the annual report and accounts

Issue	Resolution
<p>1. Implementation of IFRS 16</p> <p>The impact of implementing IFRS 16 was to reclassify leases that were previously treated as operating leases, requiring capitalisation of the underlying assets.</p> <p>Within the financial statements, all future lease payments have been recognised as a Right to Use Asset (£24,000) together with a corresponding lease liability in the Statement of Financial Position.</p>	<p>We reviewed the IFRS 16 disclosures and agreed the balances to working papers and lease agreements. We identified one lease which was originally omitted and which was later corrected. We can confirm that these were accounted for in line with relevant guidance.</p>
<p>2. Prepayment and Creditor double counting</p> <p>During our testing of prepayments and accruals we identified two transactions (£148,000) which had been included in both creditors and prepayments at the year end. These related to 2023/24 expenditure. We have agreed that the expenditure has been correctly accounted for in both 2022/23 and 2023/24 but has resulted in an overstatement of both creditors and prepayments in 2022/23. We are content that there is no payment in advance.</p>	<p>We consider the accounting of these items to be reasonable but have discussed with management that they review this approach going forwards to ensure the accounting more closely matches the relevant year of expenditure. Management have agreed to discuss with their suppliers that invoices are issued more in line with due payment timescales.</p>

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Other audit findings

19. SLCC currently aim to pay for goods and services within 30 days and report on their performance against this target. The Scottish Public Finance Manual encourages relevant central government bodies to pay for goods and services in accordance with the Scottish Government target for the payment of invoices within 10 working days of their receipt. We would encourage SLCC to apply this going forward.

Our audit work responded to the risks of material misstatement we identified in the annual report and accounts

20. We have obtained audit assurances over the identified significant risks of material misstatement to the annual report and accounts. [Exhibit 3](#) sets out the significant risks of material misstatement to the financial statements we identified in our 2022/23 Annual Audit Plan. It also summarises the further audit procedures we performed during the year to obtain assurances over these risks and the conclusions from the work completed.

Exhibit 3**Identified significant risks of material misstatement in the annual report and accounts**

Audit risk	Assurance procedure	Results and conclusions
<p>1 Risk of material misstatement due to fraud caused by management override of controls</p> <p>As stated in International Standard on Auditing (UK) 240, management is in a unique position to perpetrate fraud because of management's ability to override controls that otherwise appear to be operating effectively.</p>	<ul style="list-style-type: none"> • Assess the design and implementation of controls over journal entry processing. • Enquire about inappropriate or unusual activity relating to the processing of journal entries and other adjustments. • Test journals at the year-end and post-closing entries and focus on significant risk areas. • Test journal entries and other adjustments during the period. • Evaluate significant transactions outside the normal course of business. • Assess the controls in place for identifying related party relationships and transactions. • Assess the methods and underlying assumptions used to prepare accounting estimates. • Substantive testing of income and expenditure transactions around the year-end to confirm they are accounted for in the correct financial year. • Focussed testing of accounting accruals and prepayments. 	<p>We undertook a range of audit work including:</p> <ul style="list-style-type: none"> • detailed testing of journal entries, prepayments, accruals, accounting estimates and unusual transactions • cut off testing. <p>Audit testing did not identify any issues and we found no evidence of management override of controls.</p>
<p>2 Risk of material misstatement due to fraud in expenditure</p> <p>Practice Note 10 extends the requirements of ISA 240 to include consideration of fraud in expenditure for public bodies. SLCC expenditure includes the category 'other</p>	<ul style="list-style-type: none"> • Monitoring of the budgetary process and reporting. • Substantive testing of transactions across the financial year, particularly those in the 'other administration' category. 	<p>We considered the budgetary control process and reporting and consider it to be effective.</p> <p>We did not identify any areas of concern around our substantive testing of transactions across the year,</p>

Audit risk	Assurance procedure	Results and conclusions
administration expenditure'. In 2021/22, £1.1 million was incurred and consists of a range of expenditure items. As this is in excess of our materiality, there is a risk that expenditure may be misstated resulting in a material misstatement in the financial statements.	<ul style="list-style-type: none"> • Substantive testing of expenditure transactions around the year-end to confirm they are accounted for in the correct financial year. • Substantive testing of accruals and prepayments. • Consider any relevant internal audit reports. 	and around the year end, and of accruals and prepayments. We reviewed Internal Audit reports in year and did not identify any areas of concern.

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21. In addition, we identified “areas of audit focus” in our 2022/23 Annual Audit Plan where we considered there to be other risks of material misstatement to the financial statements. The areas of specific audit focus were:

- **Implementation of IFRS 16.** We reviewed the IFRS 16 disclosures in the unaudited accounts and agreed the balances to working papers and lease agreements. We confirmed that these were in line with supplementary guidance (Exhibit 2, point 1).
- **Estimates and judgements relating to provisions.** We tested a sample of provisions (legal and dilapidations) and reviewed their appropriateness. We concluded that the balances and disclosures within the annual report and financial statements are reasonable.

22. We kept these areas under review throughout our audit. Based on the findings of the audit procedures performed, there are no matters which we need to bring to your attention.

The unaudited annual report and accounts were received in line with the agreed timetable

23. The unaudited annual report and accounts were received in line with our agreed audit timetable on 31 August 2023 and good support was received from finance staff and in particular from the Director of Business Performance. Working papers were of a good quality which expedited the audit process.

24. There were no identified misstatements above our reporting threshold.

Part 2. Wider Scope

For less complex bodies wider-scope audit work considers the financial sustainability of the body and the services that it delivers over the medium to longer term

Conclusion

The Scottish Legal Complaints Commission operated within its agreed budget for 2022/23.

The Scottish Legal Complaints Commission has effective and appropriate arrangements in place to continue to deliver services.

Disclosures in the Governance Statement are consistent with the financial statements and the statement has been prepared in accordance with the relevant statutory guidance.

The Scottish Legal Complaints Commission has a medium-term financial plan covering 2022-2028. This will require updating in light of the recent office move.

Potential reform of SLCC is highly likely although no final decisions have been made. SLCC recognises a range of risks which may affect the organisation as reform progresses.

Audit work has addressed the wider scope areas identified in our Annual Audit Plan

25. The Code of Audit Practice includes provisions relating to the audit of less complex bodies. Where the application of the full wider audit scope is judged by auditors not to be appropriate to an audited body then the annual audit work can focus on the appropriateness of the disclosures in the governance statement and the financial sustainability of the body and its services.

26. Due to the nature of the Scottish Legal Complaints Commission, we have concluded that the less complex provision can be applied. We have not identified any risks in relation to the wider scope.

The Scottish Legal Complaints Commission operated within its agreed budget for 2022/23

27. SLCC does not receive any Scottish Government funding. A budget is set at the start of each financial year. The SLCC is funded by the general levy paid by legal professionals operating in Scotland which is collected by the relevant professional organisation and paid over to the SLCC. In addition, SLCC also

receive funding in the form of the approved regulators' levy and the complaints levy, which is charged when a complaint is upheld. In 2022/23, the Board approved a deficit budget having considered the level of reserves held at the end of 2021/22. SLCC reserves policy refers to the holding of sufficient funds to cover three months average expenditure. The reserves position as at 30 June 2023 is in excess of the amount required by the policy.

28. SLCC has reported a deficit of £48,216 against a planned deficit of £133,881. The financial performance is shown in [Exhibit 4](#).

Exhibit 4 Financial performance in 2022/23

Performance	Final budget £	Outturn £	Over/(under) spend £
Income	3,736,565	3,862,556	(125,991)
Expenditure	3,870,446	3,910,772	40,326
(Surplus)/Deficit	133,881	48,216	(85,665)

Source: SLCC annual report and financial statements: year ended 30 June 20223

29. SLCC is carrying forward a cash balance of £1.744 million, a decrease of £6,000 from 2021/22. The 2023/24 budget notes that the SLCC intends to apply £156,424 of its reserves to support 2023/24 planned expenditure.

30. SLCC has a 2020-2024 strategy in place which is supported by annual operating plans. While the operational plan clearly links into the strategic plan there is no financial information included. Looking ahead as SLCC develops its next strategic plan, the financial impact of its development should be assessed and incorporated where appropriate.

31. SLCC produces a detailed annual operating plan and budget. The 2023/24 budget was published in March 2023 and outlines the key proposals and changes from previous years, all of which has been subject to consultation. The budget takes account of the impact of increased pay costs, increase complaints while also taking advantage of efficiency savings achieved such as through the move of office location.

The Scottish Legal Complaints Commission has a medium-term financial plan in place

32. SLCC updated their medium-term financial plan (MTFP) during 2022. The revised MTFP covers the period up to 2027/28, and provides three model budgets based on different levels of reduction in levy funding.

33. Each model budget predicts a deficit for the initial years but ends with a surplus position in 2027/28. Under all three scenarios, SLCC has sufficient

reserves to meet funding requirements whilst adhering to its reserves policy. Due to a number of factors, including the recent office move, the medium-term financial plan will need to be reassessed to determine if these forecasts remain accurate.

Governance arrangements are appropriate

34. Our audit opinion considers whether the Governance Statement has been prepared in accordance with the Scottish Public Finance Manual and directions made by Scottish Ministers.

35. A Governance Statement prepared by the Accountable Officer is a key feature of the annual report and financial statements. The statement confirms that the SLCC complies with relevant guidance on corporate governance. It also highlights the main risks and opportunities for the organisation. We reviewed these arrangements and concluded that they are appropriate, that the Governance Statement is consistent with the financial statements and has been prepared in accordance with guidance issued by the Scottish Ministers.

36. The SLCC consists of a Board which should comprise a lay chair and eight further members (five lay and three legal). During 2022/23 the chair and a lay member stepped down from the Board. The recruitment exercise run by the Scottish Government failed to identify a suitable candidate and the vice-chair (who was also the Audit Committee chair) stepped up on an interim basis. In order to assist the governance around this measure, the lay member remained on the Board as an independent member of the audit committee. A new Board chair took up the role in July 2023.

Cyber Security arrangements are improving within SLCC

37. We undertook a high-level review of Cyber security arrangements within SLCC as part of our 2022/23 audit. A cyber action plan is in place to track ongoing actions in relation to cyber security. This includes a number of improvement actions based on the findings identified from the cyber attack on the Scottish Environmental Protection Agency. Of the 24 actions currently included, 21 are complete, 2 are ongoing and 1 is not started.

38. SLCC do not currently hold Cyber Essentials Plus Certification, however this action is in progress and a date for assessment is expected by the end of 2023.

39. SLCC recognise the risk around cyber security risks. A cyber security risk is included in the strategic risk register and mitigating controls have been put in place to address this. Actions are being followed up through the Audit Committee where cyber security is a standing item on the agenda.

Potential reform of SLCC is highly likely although no final decisions have been made

40. An independent review of the regulation of legal services was published in October 2018. Since then, and following consultation with interested parties, the Scottish Government has introduced the Regulation of Legal Services (Scotland) Bill which continues to make its way through the parliamentary process. The Performance Report refers to the process of reform and acknowledges that there is no risk to SLCC's going concern as the SLCC will continue going forwards,

albeit with a potential name change. The performance report also recognises a range of risks which may affect the organisation as reform progresses and depending on decisions made during the Bill's progression.

The Scottish Legal Complaints Commission has appropriate arrangements in place for securing Best Value

41. The Scottish Public Finance Manual (SPFM) explains that Accountable Officers have a specific responsibility to ensure that arrangements have been made to secure Best Value. Ministerial guidance to Accountable Officers for public bodies sets out their duty to ensure that arrangements are in place to secure Best Value in public services.

42. The Accountable Officer continues to review best value which is demonstrated in the 2023/24 operating plan and budget where it is reported that:

- general levies were reduced for two years during the pandemic and is still below the 2020/21 level
- the funding of many one-off costs are being funded from reserves
- there are projected savings resulting from a property review project
- an efficiency savings package of £500,000 from 2024 onwards will be introduced
- changes to the complaints process has resulted in efficiency savings

Scottish Legal Complaints Commission

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Audit Scotland, 4th Floor, 102 West Port, Edinburgh EH3 9DN
T: 0131 625 1500 E: info@audit-scotland.gov.uk
www.audit-scotland.gov.uk