Introduction

The Law Society of Scotland aims to lead and support a successful and respected Scottish legal profession. Not only do we act in the interests of our solicitor members but we also have a clear responsibility to work in the public interest. That is why we actively engage and seek to assist in the legislative and public policy decision making processes.

To help us do this, we use our various Society committees which are made up of solicitors and non-solicitors and ensure we benefit from knowledge and expertise from both within and out with the solicitor profession.

The Law Society of Scotland’s Access to Justice team welcomes the opportunity to consider the call for written evidence from the Justice Committee on the Scottish Government Draft Budget 2014-15 in particular in relation to the Scottish Court Service budget and court reforms (including financing the criminal law reforms); and the legal aid budget.

Scottish Court Service and Court Reforms

We welcome the increase in available capital expenditure for Scottish Court Service. The Scottish Government budget 2013-14 provisioned £6.0m for capital expenditure in 2013-14 and £4.0m in 2014-15: this current budget sees £12.5m for capital expenditure in 2013-14 and £7.0m in 2014-15 and 2015-16.

We heard in oral evidence to the Justice Committee last September that there was a significant maintenance backlog for the court estate, confirmed in correspondence as £57.1m. There will also be capital costs in deploying new videoconferencing and technology to look to improve the efficiency and accessibility of courts. We believe that the increased capital budget provision provided in the 2014-15 budget will help to address these issues and prepare the court estate for the various challenges ahead. It is regrettable, however, that additional capital funding has been provisioned only after ten sheriff courts were agreed to close, for reasons including financial cost.

Legal Aid

Legal Aid Funding

Legal aid delivers a vital service up and down the country to people with legal issues and it can deliver life changing assistance to people in need. It is designed to help individuals on low and modest incomes gain access to legal advice, assistance and representation.

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1 Scottish Government’s Draft Budget 2013-14: Supplementary Written Submission from the Scottish Court Service, Scottish Court Service, 31 October 2012
In 2012-13, on a cash basis, expenditure on the legal aid fund was £150.2 million.\(^2\)

The Draft Budget specifies that the budget provision for the legal aid fund is to be reduced to £132.1 million in 2014-15.\(^3\) Given existing numbers of individuals requiring legal aid services we believe that this figure is unrealistic and is unlikely to be achieved without restricting access to justice.

We note that the target figure for 2014-15 of £132.1 million is the same amount as that spent on legal assistance in 1994-95.\(^4\) Taking inflation into account, the target represents a significant reduction in real terms over the 20 year period.

We appreciate that these are challenging times. We acknowledge the seriousness of the economic background and the rationale behind economics in public expenditure. However, we believe it is critical to ensure that legal aid is able to remain a key element of access to justice for people in Scotland at a time when the need for this support continues to increase as a result of the economic situation.

**Legal Aid Budget Changes**

The Legal Aid section of the Draft Budget states: “an additional £0.4 million has been allocated for essential refurbishment work on the Legal Aid Board offices in 2014-15.”\(^5\) However, the figures in Table 6.06 of the Draft Budget show a reduction in the Administration costs of £0.5 million in 2014-15 and a reduction of £0.4 million in 2015-16. We would welcome clarification on whether there is an increase or reduction in the Administration budget.

The section also states: “An additional £3.6 million has been allocated in 2015-16 towards an anticipated increase in Legal Aid costs.”\(^6\) However, the figures in Table 6.06 of the Draft Budget show an increase in the legal aid fund in 2015-16 of £4 million.\(^7\) We would welcome clarification on the additional provision to be allocated to the legal aid fund.

We welcome the additional provision which has been allocated in 2015-16 towards the legal aid fund. However, the additional budget provision seems insufficient given that the legal aid budget is demand led and in light of previous years’ expenditure. We believe that the demand for legal aid will continue to exceed the budgeted expenditure, particularly taking into account the impact of criminal justice reforms and the new children’s legal assistance scheme.

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\(^2\) Scottish Legal Aid Board, Annual Report 2012-13

\(^3\) Table 6.06 of the Draft Budget http://www.scotland.gov.uk/Publications/2013/09/9971/7

\(^4\) Scottish Legal Aid Board, Annual Report 1994-95

\(^5\) Legal Aid - Budget Changes section of Draft Budget (emphasis added)
http://www.scotland.gov.uk/Publications/2013/09/9971/7

\(^6\) Legal Aid - Budget Changes section of Draft Budget (emphasis added)
http://www.scotland.gov.uk/Publications/2013/09/9971/7

\(^7\) The increased cost of £0.4 million for the refurbishment work on the Legal Aid Board Office should be reflected as a cost to the Administration budget rather than a cost to the legal aid fund as these are different budgets.
Children’s Legal Assistance
The new children’s legal assistance scheme came into force in June of this year. In 2012-13, expenditure on children’s legal assistance increased by 10% to £5.4m, and grants increased by 5%. We would expect the trend towards increased grants and expenditure to continue as the new system provides wider scope for assistance.

Criminal Justice (Scotland) Bill
We believe that the legal aid costs associated with the Criminal Justice (Scotland) Bill have been reasonably captured within the Financial Memorandum to the Bill. However, changes to legal aid funding structures are required to ensure the Bill provisions are both practical and effective.8

The financial memorandum provides estimate cost implications to the legal aid fund as follows:

- Legal aid costs resulting from the new liberation from police custody procedures are estimated at £863,000.9
- The additional cost to the Solicitor Contact Line is estimated at £890,000.10
- The best estimate for the increased cost of Legal Aid Advice and Assistance resulting from the changes in police station advice is £945,000.11
- Removing the requirement of corroboration would result in additional cases being brought to court and this is estimated to have a legal aid cost implication of £3,900,000.12

This provides a total estimated increase to the legal aid fund of £6,598,000.

We believe this estimated additional cost should be reflected as additional provision for legal aid in the Draft Budget.

A Sustainable Future for Legal Aid
In 2012-13, the savings measures which had been implemented following the Sustainable Future for Legal Aid strategy saved in excess of £18 million. Further savings measures continue to be developed. It is important that any savings are made in the context of the wider justice system reforms and improving access to justice. We are committed to working with the Scottish Government, the Scottish Legal Aid Board and others on these matters.

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8 We have submitted written evidence to the Finance Committee on the impact of the Bill on legal aid costs - http://www.scottish.parliament.uk/S4_FinanceCommittee/THE_LAW_SOCIETY_OF_SCOTLAND_CJ.pdf
10 Paragraph 209 of the Financial Memorandum to the Bill
11 Paragraph 214 of the Financial Memorandum to the Bill
12 Paragraph 217 of the Financial Memorandum to the Bill
Women Offenders

We are pleased to note the continued commitment to implement the recommendations of the Commission on Women Offenders, which the Law Society broadly supports. However, we would again note that it is important to ensure adequate funding for all essential services and appreciate that this funding is being phased in line with available funding.

Law Society of Scotland
21 October 2013