



***PUBLICATION SCHEME***  
***Produced as required by the***  
***Freedom of Information (Scotland)***  
***Act 2002***

**THE PUBLICATION SCHEME OF THE SCOTTISH LEGAL COMPLAINTS COMMISSION**

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## SECTION 1: INTRODUCTION TO THE PUBLICATION SCHEME

- 1.1 The Freedom of Information (Scotland) Act 2002 (FOISA) provides individuals with a right of access to all recorded information held by Scotland's public authorities. Anyone can use this right, and information can only be withheld where FOISA expressly permits it.
- 1.2 Section 23 of FOISA also requires that all Scottish public authorities maintain a publications scheme. A publication scheme sets out the types of information that a public authority routinely makes available. This scheme has been approved by the Scottish Information Commissioner, who is responsible for enforcing FOISA. We are also obliged to review this scheme from time to time.
- 1.3 The purpose of the scheme is to provide you with details of the range of information that we routinely publish. The scheme also provides details of how you can access this information, and tells you whether it is available free, or if there is a charge for the information.
- 1.4 Alongside FOISA, the Environmental Information (Scotland) Regulations 2004 (the EIRs) provide a separate right of access to the environmental information that we hold. This publication scheme also contains details of the environmental information that we hold. This publication scheme also contains details of the environmental information that we routinely make available.
- 1.5 Where information is not published under this scheme you can request it from us under FOISA or, in the case of environmental information, the EIRs. For further information on accessing information not covered by this scheme, refer to Section 11 – How to access information not available under the scheme.

## SECTION 2: ABOUT THE SCOTTISH LEGAL COMPLAINTS COMMISSION

- 2.1 The Scottish Legal Complaints Commission is a corporate body established under The Legal Profession and Legal Aid (Scotland) Act 2007 [the 2007 Act].
- 2.2 The SLCC is a neutral body, created under the 2007 Act to operate independently of the legal profession. Furthermore, although it has legal status, it is not to be regarded as “a servant or agent of the Crown”, and so is also independent from Government. The SLCC has both *public body* and *private body* characteristics. *Public* in the respect that it is not a Government department (or connected to one), and isn't staffed by civil servants, but is still subject to requirements relating to freedom of information, standards in public life, and The Human Rights Act 1998. And *private* in the respect that the SLCC has responsibility for certain aspects of its own finances, such as setting its annual budget, and will not be funded by the public (instead it will be funded by levies on the legal profession).
- 2.3 The main functions of the Commission are to:
  - 2.3.1 Provide advice as regards the process of making a services complaint or handling complaint;
  - 2.3.2 Act as a gateway for receipt of all complaints against legal practitioners within Scotland;
  - 2.3.3 Consider if complaints should be admitted into the Commission's complaint resolution process or be transferred as a service or conduct complaint to the Law Society of Scotland or Faculty of Advocates;
  - 2.3.4 Investigate the handling of service and conduct complaints by the professional bodies;
  - 2.3.5 Monitor the effectiveness of the guarantee fund and professional indemnity arrangements maintained by the Law Society of Scotland or the Faculty of Advocates.
  - 2.3.6 Issue guidance on the way the professional bodies and practitioners deal with complaints.

## SECTION 3: PREPARING THE PUBLICATION SCHEME

- 3.1 When preparing or reviewing our publication scheme, we are obliged by FOISA to have due regard to the public interest in providing access to the information that we hold which relates to:

- the services we provide;
- the costs of those services;
- the standard of those services;
- the facts that inform the important decisions we take; and
- the reasoning that informs our decisions

3.2 In preparing this publication scheme the Scottish Legal Complaints Commission has considered both its remit and the duty it owes to practitioners and the public to provide information about its' operation and the work it undertakes. As a new body the scheme will be subject to development over time taking account of feedback, staff surveys and audits carried out of our operation.

#### **SECTION 4: ACCESSING INFORMATION UNDER THE SCHEME**

4.1 People can access information under the publication scheme in a number of ways. The information can be accessed as follows:

4.1.1 Online: Information listed under the publication scheme is available from our WEB site.

4.1.2 By e-mail: If the information you request is not available on our Website, but is listed in our publication scheme, we will send it you by e-mail where practical. When requesting information, contact enquiries@scottishlegalcomplaints.org.uk, including a telephone number so that we can telephone to clarify any details.

4.1.3 By phone: Information can be requested over the telephone.

4.1.4 By post: All information is available in paper form or we may issue it within a storage device. Please address your request to the Information officer. When requesting information, please include the following details: your name and address, the information or documents you want to see, an idea of the format you might require and please include a telephone number.

4.2 If a fee is chargeable, please include the fee payable (see *Section 6: Our Charging Policy* for further information on fees).

4.3 If you have difficulty determining the information you want to see, please contact the Information Officer at the Scottish Legal Complaints Commission [Head of Communications, Doreen Graham] who may be available to help.

#### **SECTION 5: INFORMATION THAT WE MAY WITHHOLD**

All information covered by our publication scheme can either be accessed through our website, or will be provided promptly following our receipt of your request.

Our aim in maintaining this publication scheme is to be as open as possible. You should note, however, that there may be limited circumstances where information will be withheld from one of the classes of information listed in *Section 12 – Classes of Information*. Information will only be withheld, however, where FOISA (or, in the case of environmental information, the EIRs expressly permits it).

Information may be withheld, for example, where its disclosure would breach the law of confidentiality, harm an organisation's commercial interests, or endanger the protection of the environment. Section 26 of the FOISA also provides that where disclosure is prohibited by any other Act that is exempt from disclosure. The Legal Profession and Legal Aid (Scotland) Act 2007 at section 43 also expressly prohibits release of information contained in a conduct, services or handling complaint which is given to the Commission to allow it to consider the complaint and for our investigation. There are many reasons for this, but an important issue is that the complaints we deal with relate to private client work which attracts legal professional privilege. Information may also be withheld if it is another person's personal information, and its release would breach the data protection legislation.

Whenever information is withheld we will inform you of this, and will set out why that information cannot be released. Even where information is withheld it may, in many cases, be possible to provide copies with the withheld information edited out. If any information within a document made available under the publication scheme is withheld, the document will be clearly marked to show where the information has been removed and details of the exemption relied on for so doing.

If you wish to complain about any information which has been withheld from you, please refer to *Section 10 – Complaints*.

## SECTION 6: OUR CHARGING POLICY

- 6.1 Unless otherwise stated in Section 12 – *Classes of Information*, all information contained within our scheme is available from us free of charge where it can be downloaded from our website or where it can be sent to you electronically by email without excessive use of staff time.
- 6.2 We reserve the right to impose charges for providing information in paper copy or on computer disc. Charges will reflect the actual costs of reproduction and postage to the Commission, as set out below.
- 6.3 In the event that a charge is to be levied, you will be advised of the charge and how it has been calculated. Information will not be provided to you until payment has been received.

### **Reproduction costs:**

- 6.4 Where charges are applied, photocopied information will be charged at a standard rate of 10p per A4 side of paper (black and white copy) and 30p per A4 side of paper (colour copy).

Computer discs will be charged at the rate of £1.00 per CD-Rom

### **Postage cost:**

- 6.5 We will pass on postage charges to the requester at the cost to the Commission of sending the information by first class post.

## SECTION 7: OUR COPYRIGHT POLICY

- 7.1 The Scottish Legal Complaints Commission holds the copyright for the vast majority of information in this publication scheme. All of this information can be copied or reproduced without our formal permission, provided it is copied or reproduced accurately, is not used in a misleading context, and provided that the source of the material is identified.
- 7.2 The publication scheme may, however, contain information where the copyright holder is not The Scottish Complaints Commission. In most cases the copyright holder will be obvious from the documents. In cases where the copyright is unclear, however, it is the responsibility of the person accessing the information to locate and seek the permission of the copyright holder before reproducing the material or in any other way breaching the rights of the copyright holder. Wherever possible, this scheme will indicate where we do not own the copyright on documents within *Section 12 – Classes of Information*.
- 7.3 Information about Crown copyright material is available on the website of the Queens Printer for Scotland at [www.oqps.gov.uk](http://www.oqps.gov.uk). We can provide you with a copy of this information if you do not have internet access.

## SECTION 8: OUR RECORDS MANAGEMENT AND DISPOSAL POLICY

- 8.1 We are currently finalising our records management policy. This will be available by May 2009.

## SECTION 9: FEEDBACK

9.1 FOISA requires that we review our publication scheme from time to time. As a result, we welcome feedback on how we can develop our scheme further. If you would like to comment on any aspect of this publication scheme, then please contact us. You may, for example wish to tell us about:

- other information that you would like to see included in the scheme;
- whether you found the scheme easy to use;
- whether you found the publication scheme useful;
- whether our staff were helpful;
- other ways in which our publications scheme can be improved.

9.2 Please send any comments or suggestions to:

Doreen Graham  
Head of Communications  
Scottish Legal Complaints Commission  
The Stamp Office  
10 – 14 Waterloo Place  
Edinburgh  
EH1 3EG  
[Doreen.Graham@scottishlegalcomplaints.org.uk](mailto:Doreen.Graham@scottishlegalcomplaints.org.uk)

## SECTION 10: COMPLAINTS

Our aim is to make our publication scheme as user-friendly as possible, and we hope that you can access all the information we publish with ease. If you do wish to complain about any aspect of the publication scheme, however, then please contact us, and we will try and resolve your complaint as quickly as possible. You can contact:

Jane Irvine  
Chairing Member  
The Scottish Legal Complaints Commission  
The Stamp Office  
Edinburgh  
EH1 3EG

Any complaint will be acknowledged within two working days of receipt and we will respond in full within twenty working days.

You have legal rights to access information under this scheme and a right of appeal to the Scottish Information Commissioner if you are dissatisfied with our response. These rights apply only to information requests made in writing\* or another recordable format. If you are unhappy with our responses to your request you can ask us to review it and if you are still unhappy, you can make an appeal to the Scottish Information Commissioner.

The Commissioner's website has a guide to this three step process, and he operates an enquiry service on Monday to Friday from 9:00am to 5:00pm. His office can be contacted as follows:

**Scottish Information Commissioner**  
Kinburn Castle  
Doubledykes Road  
St Andrews  
KY16 9DS  
Tel: 01334 464614

## SECTION 11: HOW TO ACCESS INFORMATION WHICH IS NOT AVAILABLE UNDER THIS SCHEME

11.1 If the information you are seeking is not available under this publication scheme, then you may wish to request it from us. The FOISA provides you with a right of access to the information we hold, subject to certain exemptions. The EIRs separately provide a right of access to the environmental information we hold, while the Data Protection Act 1998 (DPA) provides a right of access to any personal information about you that we hold. Again, these rights are subject to certain exceptions or exemptions.

11.2 Should you wish to request a copy of any information that we hold that is not available under this scheme, please write to:

Doreen Graham  
Scottish Legal Complaints Commission  
The Stamp Office  
10 – 14 Waterloo Place  
Edinburgh  
EH1 3EG

### ***Charges for information which is not available under the scheme:***

11.3 The charges for information which *is* available under this scheme are set out under Section 6 – Our Charging Policy. If you submit a request to us for information which *is not* available under the scheme the charges will be based on the following calculations:

11.4 General information requests:

- There will be no charge for information requests which cost us £100 or less to process.
- Where information costs between £100 and £600 to provide you may be asked to pay 10% of the cost. That is, if you were to ask for information that cost us £600 to provide, you would be asked to pay £50, that calculated on the basis of a waiver for the first £100 and 10% of the remaining £500.
- We are not obliged to respond to requests which will cost us over £600 to process.
- In calculating any charge, staff time will be calculated at actual cost per staff member hourly salary rate to a maximum of £15 per person per hour.
- We do not charge for the time to determine whether we hold the information requested, nor for the time it takes to decide whether the information can be released. Charges may be made for locating, retrieving and providing information to you.
- In the event that we decide to impose a charge we will issue you with a notification of the charge (a fees notice) and how it has been calculated. You will have three months from the date of issue of the fees notice in which to decide whether to pay the charge. The information will be provided to you on payment of the charge. If you decide not to proceed with the request there will be no charge to you.

### ***Charges for environmental information:***

11.5 We do not charge for the time to determine whether we hold the information requested, nor for the time it takes to decide whether the information can be released. Charges may be made for locating, retrieving and providing information to you.

11.6 In the event that we decide to impose a charge we will issue you with notification of the charge and how it has been calculated. The information will be provided to you on payment of the charge. If you decide not to proceed with the request there will be no charge to you.

11.7 Charges are calculated on the basis of the actual cost to the authority of providing the information.

- Photocopying is charged at 10p per A4 sheet for black and white copying, 30p per A4 sheet for

colour copying.

- Postage is charged at actual rate for first class mail.
- Staff time is calculated at actual cost per staff member hourly salary rate to a maximum of £15 per person per hour.

11.8 The first £100 worth of information will be provided to you without charge.

11.9 Where information costs between £100 and £600 to provide you will be asked to pay 10% of the cost. That is, if you were to ask for information that cost us £600 to provide you will be asked to pay 10% of the cost. That is, if you were to ask for information that cost us £600 to provide, you would be asked to pay £50, that calculated on the basis of a waiver for the first £100 and 10% of the remaining £500.

11.10 Where it would cost more than £600 to provide the information to you, however, we will ask you to pay the full cost of providing the information, with no waiver for any portion of the cost.

**Requests for your own personal data:**

11.11 Our charging policy for provision of personal data will follow the above.

## SECTION 12: CLASSES OF INFORMATION

GOVERNANCE DOCUMENTS

MINUTES OF BOARD MEMBERS' MEETINGS

ANNUAL REPORT & BUDGET, PRACTITIONER LEVY, COMPLAINT LEVY & ACCOUNTS INFORMATION

CASE HANDLING POLICY DOCUMENTS INCLUDING THE RULES and CASE HANDLING STATISTICS

POLICY REGARDING INSURANCE AND MASTER POLICY OVERSIGHT

POLICY REGARDING MISCONDUCT HANDLING OVERSIGHT

STAFF POLICY DOCUMENTS

OFFICE POLICY DOCUMENTS