

Justice Committee

Scottish Government's Draft Budget 2015-16

Written submission from the Law Society of Scotland

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 2015-16 in particular in relation to the Scottish Court Service budget and court reforms and the legal aid budget.

Scottish Court Service and Court Reforms

The budget for the Scottish Court Service sees an increase in 2015-16 of £2.9m, £2.4m of which is operating expenditure and £0.5m of which is capital. We believe that additional funding will be helpful. The Scottish Courts Service and the Scottish Tribunals Service merge in spring 2015 to form the Scottish Courts and Tribunals Service, and it is important that there are sufficient funds for the new body to successfully complete that transition.

We are aware that there remains a significant maintenance backlog across the court estate – £57.1m at October 2012 – and any additional funding to help meet these costs is welcome. The court closure programme will complete in January 2015 and there may be some savings emerging from the disposal of these twelve locations.

The draft budget for 2015-16 notes the priorities for the Scottish Court Service, which includes implementing technology-driven case management and “placing digital innovation at the centre of service delivery to improve access to justice”. We have engaged around the Scottish Government's Justice Digital Strategy,¹ which has the potential to deliver a number of positive outcomes for access to justice. It is ambitious, for instance, including the development of an interactive justice portal:

“By the end of 2017 our platform will have evolved into an interactive tool providing online help and support... civil litigants, tribunals' users and victims of crime will be able to track their case.”

¹ *The Digital Strategy for Justice in Scotland*, Scottish Government, 2014 - <http://www.scotland.gov.uk/Resource/0045/00458026.pdf>

The Digital Strategy also includes proposals for the extension of videoconferencing, digital warranting, digital learning for prisoners, secure wifi in all court buildings, electronic evidence storage and body-worn cameras for police. We query whether there is sufficient funding to secure any of these reforms; the Scottish Government's Justice Digital Strategy is not mentioned in the draft budget. For a new and major reform programme that is estimated to generate savings of £25-30m annually on completion, we believe that some clarity on how this will be resourced would be helpful.

Legal Aid

Legal Aid Fund

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.

In 2013-14, on a cash basis, expenditure on the legal aid fund was £150.5 million.² The Draft Budget specifies that the budget provision for the legal aid fund is £132.1 million for 2014-15 and £136.1 million for 2015-16.³

We are fortunate in Scotland to have a legal aid system which is demand led and not cash limited. However, the Government is committed to achieving the budget allocation by implementing reforms to reduce expenditure further. In order to meet the budgeted provision for legal aid, the Scottish Government would need to reduce legal aid expenditure by £18.4 million in 2014-15. Given existing numbers of individuals requiring legal aid services we believe that the budget allocation figures are unrealistic and are unlikely to be achieved without restricting access to justice.

Overall expenditure on legal assistance has been declining in real terms for many years:

- In 1994/95, the total expenditure on legal assistance was £132.1 million.
- The Scottish Government's budget allocation for legal assistance for 2014-15 is £132.1 million.

This is the same amount in cash terms but is significantly less in real terms. This is only around 57.6% of where it would have been had it reflected inflationary rates.⁴

² Scottish Legal Aid Board, Annual Report 2013-14

[http://www.slab.org.uk/common/documents/Annual_Report_2013_2014/A - Annual_Report_2013-14.pdf](http://www.slab.org.uk/common/documents/Annual_Report_2013_2014/A_-_Annual_Report_2013-14.pdf)

³ Table 9.07 of the Draft Budget - <http://www.scotland.gov.uk/Resource/0046/00462284.pdf>

⁴ UK inflation data calculator - <http://www.thisismoney.co.uk/money/bills/article-1633409/Historic-inflation-calculator-value-money-changed-1900.html>

In a report made by the SLAB to the International Legal Aid Group Conference 2011 in Helsinki:

“Legal aid expenditure has been reducing in real terms for many years. In 2009-10 the cost of legal aid was around 10% less (£13m) than in 1998-99.”⁵

Legal assistance provides financial assistance to enable those on low and moderate incomes to access legal services. Its continuation is vital in ensuring the right to a fair trial, enshrined in both common law and human rights legislation. If trends continue, we believe that solicitors are going to find it difficult to continue to offer these services and remain economically viable.

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 that the legal profession should be fairly remunerated for the legal aid work that they do. It should be borne in mind that legal aid provides help to some of the most marginalised and vulnerable in society. We believe that additional funding should be allocated to legal aid to ensure legal aid remains a key element of access to justice for people in Scotland.

A Sustainable Future for Legal Aid

Since 2011, the Government has developed and implemented a package of legal aid savings.

The savings package continues to deliver cash savings and the Scottish Legal Aid Board has estimated that around £20 million of savings was delivered in 2013-14.⁶

Additional savings measures continue to be developed. It is important that any savings are made in the context of 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.

Law Society of Scotland
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⁵ International Legal Aid Conference Helsinki 2011: National Report from Scotland, Scottish Legal Aid Board, 2011

⁶ Scottish Legal Aid Board Annual Report – 2013-14, page 5 - http://www.slab.org.uk/common/documents/Annual_Report_2013_2014/A_-_Annual_Report_2013-14.pdf