

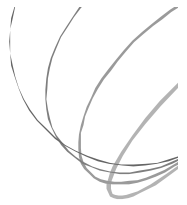
# Scottish Legal Aid Board

Report on the 2005-06 Audit

8 December 2006



**Audit Scotland is a statutory body set up in April 2000 under the Public Finance and Accountability (Scotland) Act 2000. It provides services to the Auditor General for Scotland and the Accounts Commission. Together they ensure that the Scottish Executive and public sector bodies in Scotland are held to account for the proper, efficient and effective use of public funds.**



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# Executive Summary

## Introduction

In 2005-06 we audited the financial statements of the Scottish Legal Aid Board (SLAB) which included looking at aspects of performance management and governance. This report sets out our key findings. At the planning stage we identified five audit risks which informed our audit procedures. From our audit work we can conclude that these risks are being satisfactorily managed by SLAB, but that in some cases further monitoring or action is required.

## Financial Statements

We have given an unqualified opinion on the financial statements of SLAB for 2005/06.

## Governance

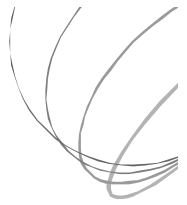
SLAB's corporate governance and control arrangements operated satisfactorily in the period under review as reflected in the Statement on Internal Control. We also found the work of the internal audit service was satisfactory and continued to place formal reliance on their work.

## Performance Management

During 2005-06 we completed a baseline analysis of SLAB's management arrangements for achieving Best Value and concluded that arrangements were well developed, with many features embedded in SLAB's existing arrangements. We also carried out a baseline review of SLAB's arrangements for monitoring the Efficient Government Initiative. This noted that some aspects, such as monitoring and review, were good. However, other aspects of tracking savings involve significant judgement. In particular, judgements on isolating or interpreting the effects of the various Justice reforms from other influences on the demand for and costs of legal aid. Overall the review concluded that SLAB had adequate arrangements for monitoring the Efficient Government Initiative, but we recognised there is scope to keep the underlying assumptions under review.

I would like to record my thanks to management and staff for their co-operation and assistance.

Peter Tait CPFA, Assistant Director, 8 December 2006



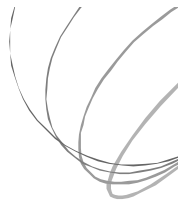
# Introduction

## Scope of the Audit

1. This report summarises the findings from our 2005-06 audit of SLAB. The scope of the audit was set out in our Audit Plan, which was submitted in draft to the Audit Committee on 20 February 2006. This plan described the work we planned to carry out on financial statements, governance and performance. Subsequent to agreement of the plan, and as discussed at the Committee meeting of 19 June 2006, we have carried out a baseline review of SLAB's arrangements for Best Value.
2. This report to management sets out our findings from our audit work. Any weaknesses outlined are only those which have come to our attention during the course of our normal audit work and are not necessarily all the weaknesses which may exist. It is the responsibility of management to determine the extent of the internal control system appropriate to SLAB. We would stress, however, that an effective internal control system is an essential part of the efficient management of any organisation. The contents of this report have been agreed with relevant officers to confirm factual accuracy.
3. This is the final year of a five year audit appointment. We would like to take this opportunity to express our appreciation for the assistance and co-operation provided by officers and members of the Board during the course of our appointment. This report will be submitted to the Auditor General for Scotland and will be published on our website at [www.audit-scotland.gov.uk](http://www.audit-scotland.gov.uk).

## Outcome on Risks Identified in the Audit Plan

4. A key feature of our audit approach is the need to form a comprehensive understanding of the client's business in order to appreciate the risks arising from that business and affecting the achievement of its objectives. Five audit risks were identified at the planning stage and listed in the ARAP:
  - Delay in the completion of the Management Statement & Financial Memorandum
  - Post implementation review of new civil applications system and arrangements
  - Delay in implementing the new Debt Management System
  - Accounting policy for grant income
  - Suspected fraud
5. The outcome against planned activity is summarised at Appendix A. From the results of our work we concluded that these risks are being satisfactorily managed by SLAB, but that further monitoring or action is required. An Action Plan covering the first point is included at Appendix B.



# Financial Statements

6. The Legal Aid (Scotland) Act 1986 requires SLAB to account for its expenditure on legal aid through the **Scottish Legal Aid Fund** account and for the expenses of administering legal aid through the **Scottish Legal Aid Board (Grant-in-Aid)** account. The introduction of the Financial Reporting Manual (FReM) resulted in the adoption of a single Foreword, Management Commentary and Remuneration Report, followed by the separate accounts of the Fund and Board (Grant-in-Aid). Accordingly, one audit report was drawn up to cover both accounts, incorporating separate opinions on each account.

## Our Responsibilities

7. We audit the financial statements and give an opinion on whether:

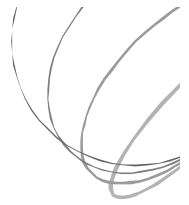
- they give a true and fair view, in accordance with the Public Finance and Accountability (Scotland) Act 2000 and directions made thereunder by the Scottish Ministers, on the state of affairs of the Scottish Legal Aid Fund and the Scottish Legal Aid Board (Grant-in-Aid) as at 31 March 2006 and of their surplus/ deficit, total recognised gains and losses and cash flows for the year then ended;
- they and the part of the Remuneration Report to be audited have been properly prepared in accordance with the Government Financial Reporting Manual (FReM) and directions made thereunder by the Scottish Ministers; and
- in all material respects the expenditure and receipts shown in the financial statements were incurred or applied in accordance with any applicable enactments and guidance issued by the Scottish Ministers.

8. We also review the Statement on Internal Control by:

- considering compliance with Scottish Executive guidance;
- considering the adequacy of the process put in place by the Accountable Officer to obtain assurances on systems of internal control; and
- assessing whether disclosures in the Statement are consistent with the information emerging from our normal audit work.

## Overall Conclusion

9. We have given unqualified opinions on the financial statements of SLAB for 2005-06. We are able to conclude that the accounts of the Fund and Board (Grant-in-Aid) give a true and fair view of their



financial positions for the period from 1 April 2005 to 31 March 2006 and that, in all material respects, the expenditure and receipts shown in the accounts were incurred or applied in accordance with applicable enactments and relevant guidance.

10. Following discussion with the Director of Corporate Services and Accounts, a date of 15 May 2006 was agreed for the provision of the accounts for audit. Accordingly audit work was scheduled to achieve a certification date that would permit the laying of the accounts before the Scottish Parliament by the end of July. Accounts were duly submitted on the agreed date and the completion timetable for the audit of the financial statements was achieved.

## Financial Performance

### Scottish Legal Aid Fund

11. The Income and Expenditure Account for the year records a total income of £163 million (2004-05: £173 million) and a total expenditure of £162 million (2004-05: £171 million). The Fund account records a net asset position of £11 million at both 2005 and 2006 year ends.

### Scottish Legal Aid Board (Grant-in-Aid)

12. The Income and Expenditure Account for the year records a total income of £12 million (2004-05 £11 million) and a total expenditure, including pension scheme finance costs, of £14 million (2004-05: £13 million). The total net assets of the Grant-in-Aid account, excluding pension scheme liabilities, was £2 million (2004-05: £2 million). The pension scheme liabilities were £27 million (2004-05: £19 million).

## Statement on Internal Control

13. A draft Statement on Internal Control was presented to the Audit Committee on 19 June 2006 as part of their examination of the financial statements. It was signed by the Chief Executive on 13 July 2006. This set out the arrangements operated for risk identification and review, management of identified risks and assurance of effectiveness.
14. We are satisfied that the Statement complies with Scottish Executive guidance, the process put in place by the Accountable Officer to obtain assurances on systems of internal control is adequate and the contents of the Statement are consistent with the information emerging from our normal audit work.



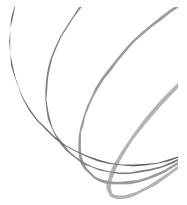
## ISA 260: Communication of Audit Matters to Those Charged with Governance

15. My responsibilities in relation to the communication of audit matters to those charged with governance are covered in International Standard on Auditing 260 and outcomes against the requirements of the Standard were reported in a letter to the Accountable Officer and presented to the Audit Committee on 19 June 2006. In this context, our audit has not identified any unadjusted errors that we need to bring to your attention. Relevant significant judgements and issues arising are recorded below.

### Significant Judgements and Other Issues

16. On the Grant-in-Aid account, we confirm that the increasing pension liability has been properly reflected in the accounts. The balance sheet records net liabilities of £25 million, but it remains appropriate to prepare the accounts on a going concern basis and the disclosures on this aspect of the account are proper and in accordance with guidance.
17. On the Fund account, we note that operating costs have reduced by 5%, but the related accrual has increased by 5%. This apparent contrast reflects the net effect of different streams of activity and we have confirmed that the figures accord with the SLAB's understanding of developments over the year.





# Governance

## Introduction

18. Corporate governance is concerned with structures and processes for decision-making, accountability, control and behaviour at the upper levels of an organisation. This section sets out the main findings arising from our review of SLAB's corporate governance as it relates to:
- systems of internal control; and
  - review of internal audit.

## Overall Governance Arrangements

19. During our audit we updated and confirmed our understanding of the governance systems operating at SLAB. Our understanding of arrangements was based on our reviews of systems and controls in previous years, the findings of internal audit and our current year work, including elements of our baseline review of Best Value arrangements, which is reported in the section of this report covering Performance. In general, we are content that the governance arrangements are soundly based.

## Systems of Internal Control

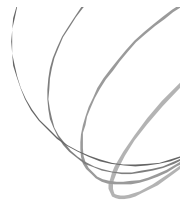
20. In our audit plan we identified that the Civil legal aid applications system had undergone major developments and that 2005-06 would be an appropriate time to assess whether any risks have arisen from the new arrangements. Evidence from the internal review suggests that the system has been successfully embedded over the course of the year.

## Review of Internal Audit

21. SLAB recognises that internal audit is a key element of the internal control system set up by management. A strong internal audit function is necessary to ensure the continuing effectiveness of the internal control system established. To maximise the reliance that external audit can place on internal audit and to avoid duplication of effort, the adequacy of internal audit is assessed each year.
22. Internal audit is provided by the Audit and Compliance Unit. From our review of the Unit's arrangements and reports, we are pleased to confirm that we are placing reliance on their work over the period, as was anticipated in our audit plans. We also confirm that the results of audits are accurately reported to the Audit Committee through out the year and at the year end.



23. The Director of Audit and Compliance reported his annual assurance to the Accountable Officer and Audit Committee on 19 June 2006. This report was based on the work planned and carried out in relation to 2005-06. It noted that the assurance provided was supported by the continuing development of:
- the corporate governance and control environment;
  - the management of risk; and
  - the integration of corporate and operational planning.
24. The report confirmed that the assurances obtained from audit work were “good” or “satisfactory”, with no areas meriting a “weak” assurance classification. The Director concluded that, in his opinion, there was nothing which would warrant not signing the standard form of the Statement on Internal Control for the year ended 31 March 2006.
25. We confirm that we have placed formal reliance on the work of internal audit, in terms of International Standard on Auditing 610 in relation to our audit of the financial statements. The other areas examined by internal audit provided assurance in relation to our assessment of corporate governance arrangements.



# Performance Management

## Introduction

26. This section covers our assessment of the way in which SLAB secures value for money in the use of its resources. This year we focussed on:

- Efficient Government; and
- Best Value.

## Efficient Government

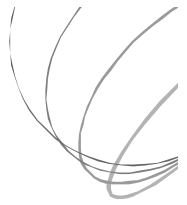
27. The Efficient Government initiative is a 5 year programme with the aim of reducing waste, bureaucracy and duplication in Scotland's public sector. The primary objective is to deliver the same services with less money or to enable frontline services to deliver more or better services with the same money. The Efficient Government Plan sets targets to achieve £745 million (rising to £900 million) of cash-releasing savings and £300 million (rising to £600 million) of time-releasing savings, by 2007-08.
28. Against a baseline position of 2004-05, SLAB has committed to cash releasing savings of £5.5 million in 2005-06, £9 million in 2006-07 and £12 million in 2007-08. Most of these savings will arise from what is known as the "savings package", comprising changes to the legislation governing legal aid and structural changes to the Justice system. SLAB will also continue to modernise the administration of legal aid which will improve efficiency, but this can only make a modest financial contribution.
29. During 2005-06 Audit Scotland completed a diagnostic questionnaire on the management arrangements for Efficient Government activities at a number of Central Government organisations, including SLAB. The questionnaire aimed to provide baseline information on arrangements across a range of Efficient Government related topics.
30. At SLAB, the review noted that some aspects, such as monitoring and review, were good. However, other aspects of tracking savings involve significant judgement. For example, savings calculations were based on hard data such as the extraction and analysis of statistical and cost information from SLAB and other systems on a "before and after" basis; however, significant judgement is involved in isolating or interpreting the effects of the various Justice reforms from other influences on the demand for and costs of legal aid. Overall the review concluded that SLAB had adequate arrangements for monitoring the Efficient Government Initiative, but we recognised there is scope to keep the underlying assumptions under review.



31. A position statement reflecting the findings across the sample of public sector organisations examined is being produced by Audit Scotland and we will keep SLAB informed of developments.

## Best Value

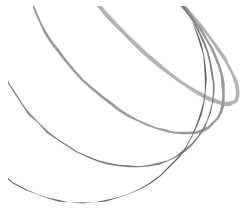
32. There is a statutory duty of Best Value for local authorities but not in the wider public sector in Scotland (the Scottish Executive and its Executive Agencies, Executive NDPBs, and the NHS). Instead, the Scottish Executive issued high level guidance in May 2003, followed by more detailed draft secondary guidance in August 2003. This duty can be described as:
- to make arrangements to secure continuous improvement in performance (while maintaining an appropriate balance between quality and cost);
  - to have regard to economy, efficiency and effectiveness, and the equal opportunity requirements; and to contribute to the achievement of sustainable development.
33. In May 2005, Ministers decided that they would not bring forward legislation which extends Best Value in the wider public sector. However, Ministers do wish to encourage and embed the principles of Best Value across the wider public sector and revised guidance was issued in May 2006.
34. For 2005-06 Audit Scotland reviewed the arrangements in place to demonstrate Best Value across a sample of the central government organisations, to identify how well-advanced they were and any areas of good practice. As part of this review we completed a diagnostic questionnaire to establish baseline information on the management arrangements in place within SLAB. The analysis was split into 10 sections. The introductory section covered the overall arrangements in place. This was followed by individual sections on each of the nine characteristics that are considered to underpin the achievement of best value. These are:
- Commitment and Leadership
  - Sound Governance at a Strategic and Operational Level
  - Accountability
  - Sound Management of Resources and Contractual Relationships
  - Responsiveness and Consultation
  - Use of Review and Options Appraisal
  - A Contribution to Sustainable Development
  - Equal Opportunities Arrangements
  - Joint Working.



35. We assessed SLAB's overall arrangements to secure Best Value as being **well developed** but 'Equal Opportunities Arrangements' and 'Joint Working' were assessed as "under development", with 'A Contribution to Sustainable Development' being assessed as "planned". It is the nature of Best Value that there is an expectation of continuous improvement across all characteristics, but assessment of the latter characteristics may indicate particular areas for further development.
36. We noted that internal audit reviewed SLAB's arrangements against the Best Value characteristics, with generally positive results. They also identified opportunities for further development in areas of sustainable development, through the procurement strategy and enhanced equal opportunities training. Although there has not been a programme of best value reviews as such, it has been agreed that the Business Efficiency Review Unit are best placed to carry out any such reviews or incorporate them within their plans.
37. Overall we concluded that most of the features of Best Value were embedded in SLAB's existing arrangements.
38. The results of the review across the wider public sector are currently under evaluation and will be published by Audit Scotland during 2006. We will keep SLAB informed of developments.

# Appendix A: Outcome on Risks Identified in Audit Plan

Risk	Management Assurances	Planned audit action	Outcome
<p><b>Management Statement and Financial Memorandum</b></p> <p>We note that the extant version of the above dates from 1996. An updated document has been in draft and under discussion for a number of years. Although progress has been made, it is not complete.</p>	<p>SLAB continues to liaise with the Scottish Executive on this matter.</p>	<p>We welcome the good practice of reviewing such framework documents in a timely manner, but it is also important that the review is formally completed. We will review for progress and likely conclusion of this issue.</p>	<p>There has been continuing dialogue with the Executive, but a revised management statement and financial memorandum has not been finalised and formally issued.</p>
<p><b>Civil applications system</b></p> <p>There have been major developments to the system, which have had some opportunity to bed in. 2005-06 would be an appropriate time to assess whether any risks have arisen from the new arrangements.</p>	<p>Management arrangements are in place to manage projects and review outcomes.</p>	<p>Evaluate evidence available from internal review of developments and examine as appropriate.</p>	<p>Evidence from internal review suggests that the system has been successfully embedded over the course of the year. The position has been reported to the audit committee and is reflected appropriately in the Management Commentary.</p>
<p><b>Suspected Fraud</b></p> <p>Management have alerted Audit Scotland to a suspected significant fraud by a solicitor. The circumstances suggest this is a one-off incident.</p>	<p>In light of these circumstances SLAB will review any similar transactions and the systems for processing cases.</p>	<p>Liaise with management to ensure appropriate action taken, including disclosures and reporting.</p>	<p>This was an isolated case and SLAB has also improved controls to minimise the risk of a reoccurrence.</p>



Risk	Management Assurances	Planned audit action	Outcome
<p><b>Debt Manager</b></p> <p>Implementation of the replacement system has been delayed and is unlikely to be in place at the year end.</p>	<p>Management have re-prioritised the introduction of this system and will ensure that there are appropriate controls in place in the intervening period.</p>	<p>Audit of year-end position will continue to be based on SLAB control and reconciliation procedures.</p>	<p>There was a satisfactory outcome to our testing of this area. We understand the system will be implemented in 2006-07.</p>
<p><b>Accounting policy of recording a grant income debtor to match amounts due to solicitors</b></p> <p>As raised previously, guidance indicates that funding should be recorded on a cash basis, rather than SLAB's policy of accruing funding to match liabilities. However, there is ongoing discussion about whether the grant should be recorded as income or taken to reserves as financing, suggesting a possible major change in policy for 2006-07.</p>	<p>SLAB will monitor developments in this area but for 2005-06 SLAB will continue with its existing policy of accruing funding.</p>	<p>Liaise with SLAB and Scottish Executive. Monitor likely developments in guidance on policies applicable to accounting for grant and grant-in-aid, in particular any announcements from the Financial Reporting &amp; Advisory Board (FRAB).</p> <p>(It is also noted that if a change of policy for grant/ grant-in-aid is to be adopted in the future, it would also be worth reviewing whether unbilled cases should be recorded as a provision rather than a creditor.)</p>	<p>FRAB discussed this topic during 2005-06 and in their meeting on 29 June 2006 agreed an amendment to the Financial Reporting Manual for 2006-07 that provides guidance on the conditions in which grants and grant-in-aid should be taken to reserves.</p> <p>In these circumstances it seemed appropriate for SLAB's accounts for 2005-06 to consistently apply the approach adopted in previous years, (ie accruing grant funding to match liabilities and taking grant to the income and expenditure account). Changing to a cash basis this year would have run the risk of the accounts reflecting 2 major changes of accounting treatment for this item in successive years, undermining consistency and comparability.</p>

# Appendix B: Action Plan: Recommendations for Further Improvements

Action Point	Para. No	Issue, Risk and Audit Recommendation	Management Response	Responsible Officer	Target Date
1	5 and Outcome on risks	<p><b>Management Statement and Financial Memorandum</b></p> <p>We note that the extant version of the above dates from 1996. An updated document has been in draft and under discussion for a number of years. Although progress has been made, it is not complete.</p> <p><i>We recommend the revised management statement and financial memorandum is agreed and formally issued.</i></p>	<p>We are close to agreement with the Scottish Executive on these documents.</p>	<p>Director of Corporate Services &amp; Accounts</p>	<p>31 December 2006</p>



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