

Scottish Legal Aid Board

2019/20 Annual Audit Report



 AUDIT SCOTLAND

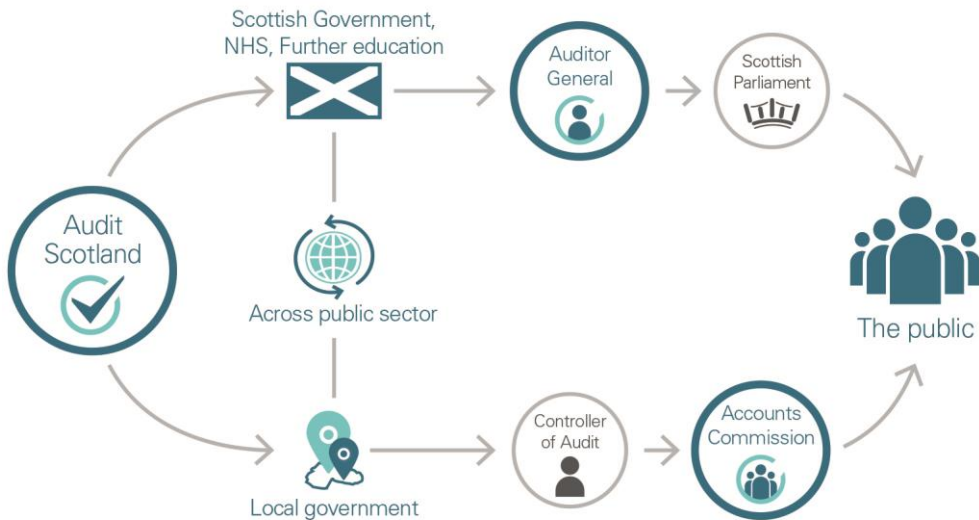
Prepared for the Scottish Legal Aid Board and the Auditor General for Scotland

12 October 2020

Who we are

The Auditor General, the Accounts Commission and Audit Scotland work together to deliver public audit in Scotland:

- The Auditor General is an independent crown appointment, made on the recommendation of the Scottish Parliament, to audit the Scottish Government, NHS and other bodies and report to Parliament on their financial health and performance.
- The Accounts Commission is an independent public body appointed by Scottish ministers to hold local government to account. The Controller of Audit is an independent post established by statute, with powers to report directly to the Commission on the audit of local government.
- Audit Scotland is governed by a board, consisting of the Auditor General, the chair of the Accounts Commission, a non-executive board chair, and two non-executive members appointed by the Scottish Commission for Public Audit, a commission of the Scottish Parliament.



About us

Our vision is to be a world-class audit organisation that improves the use of public money.

Through our work for the Auditor General and the Accounts Commission, we provide independent assurance to the people of Scotland that public money is spent properly and provides value. We aim to achieve this by:

- carrying out relevant and timely audits of the way the public sector manages and spends money
- reporting our findings and conclusions in public
- identifying risks, making clear and relevant recommendations.

Contents

Key messages	4
Introduction	6
Part 1 Audit of 2019/20 annual report and accounts	9
Part 2 Financial management	13
Part 3 Financial sustainability	17
Part 4 Governance and transparency	19
Part 5 Value for money	22
Appendix 1 Action plan 2019/20	24
Appendix 2 Significant audit risks identified during planning	28
Appendix 3 Summary of national performance reports 2019/20	31

Key messages

2019/20 annual report and accounts

- 1** The financial statements of the Scottish Legal Aid Board give a true and fair view of the state of affairs of the body as at 31 March 2020 and of the net expenditure for the year then ended; and have been properly prepared in accordance with the financial reporting framework.
- 2** An Emphasis of Matter paragraph is included in the independent auditor's report to draw attention to the impact of Covid-19 on property valuations. The audit opinion is not modified in respect of this matter.
- 3** Due to the impact of Covid-19, the accounts and subsequent audit was delayed. Management provided good support, and the year-end audit ran smoothly.

Financial management

- 4** The Scottish Legal Aid Board has demonstrated appropriate and effective financial management.
- 5** Due to the impact of Covid-19, there was an underspend against the Board's GIA budget for 2019/20.
- 6** Systems of internal control operated effectively in 2019/20, with scope for improvements in some areas.

Financial sustainability

- 7** The Scottish Legal Aid Board has a medium-term financial plan and is progressing long-term financial plans underpinned by a detailed workforce strategy.
- 8** Due to the impact of Covid-19, progress in delivering the Guidance on the Administration of Legal Aid project (GALA) and the People Strategy has been delayed.

Governance and transparency

- 9** The Covid-19 pandemic has impacted governance arrangements; however, they have remained appropriate and effective.
- 10** The Scottish Legal Aid Board has adapted to the changed operating environment allowing delivery of services and decision making to continue.

Value for money

- 11** The Scottish Legal Aid Board has an appropriate and effective best value framework in place with an annual assessment reported to both the Board and the Audit Committee.

- 12** Operational performance in assessing applications is reported as good but is more mixed in accounts processing and payment. Levels of accuracy remain above 95% of applications checked.
- 13** Progress on the further development of the People Strategy has been delayed due to the impact and longer-term implications of Covid-19.

Introduction

1. This report summarises the findings from our 2019/20 audit of the Scottish Legal Aid Board (SLAB).

2. The scope of our audit was set out in our Annual Audit Plan presented to the 9 March 2020 meeting of the Audit Committee. This report comprises the findings from:

- an audit of SLAB's annual report and accounts
- consideration of the four audit dimensions that frame the wider scope of public audit set out in the [Code of Audit Practice 2016](#) as illustrated in [Exhibit 1](#).

Exhibit 1 Audit dimensions



Source: *Code of Audit Practice 2016*

3. The main elements of our audit work in 2019/20 have been:

- an audit of SLAB's 2019/20 annual report and accounts including the issue of an independent auditor's report setting out my opinions
- a review of SLAB's key financial systems
- consideration of the four audit dimensions.

4. Subsequent to the publication of the Annual Audit Plan, in common with all public bodies, SLAB has had to respond to the global coronavirus pandemic. This impacted on the final month of the year and will continue to have significant impact into financial year 2020/21. It has had implications for the services SLAB delivers

as a result of measures introduced through the Coronavirus (Scotland) Act 2020 and the Legal Aid and Advice and Assistance (Coronavirus) (Scotland) Regulations 2020, but also the suspension of non-essential projects and activities, such as development of the workforce plan.

5. Our planned audit work has had to adapt to new emerging risks as they relate to the audit of the financial statements and the wider dimensions of audit.

Adding value through the audit

6. We add value to SLAB through the audit by:

- identifying and providing insight on significant risks, and making clear and relevant recommendations
- sharing intelligence and good practice through our national reports ([Appendix 4](#)) and good practice guides
- providing clear and focused conclusions on the appropriateness, effectiveness and impact of corporate governance, performance management arrangements and financial sustainability.

Responsibilities and reporting

7. SLAB 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 the Scottish Ministers.

8. SLAB is also responsible for establishing appropriate and effective arrangements for governance, propriety and regularity that enable the board to successfully deliver its objectives.

9. Our responsibilities as independent auditor are established by the Public Finance and Accountability (Scotland) Act 2000 and the [Code of Audit Practice 2016](#), and supplementary guidance and International Standards on Auditing in the UK. As public sector auditors we give independent opinions on the annual report and accounts. Additionally, we conclude on the appropriateness and effectiveness of the performance management arrangements, the suitability and effectiveness of corporate governance arrangements, the financial position and arrangements for securing financial sustainability. Further details of the respective responsibilities of management and the auditor can be found in the [Code of Audit Practice 2016](#) and supplementary guidance.

10. This report raises matters from our audit. Weaknesses or risks identified 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.

11. Our annual audit report contains an agreed action plan at [Appendix 1](#). It sets out specific recommendations, the responsible officer(s) and dates for implementation. It also includes any outstanding actions from last year and progress against these.

Auditor Independence

12. Auditors appointed by the Accounts Commission or Auditor General must comply with the Code of Audit Practice and relevant supporting guidance. When auditing the financial statements auditors must comply with professional standards issued by the Financial Reporting Council and those of the professional accountancy bodies.

13. 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 2019/20 audit fee of £44,120 as set out in our Annual Audit Plan remains unchanged. We are not aware of any relationships that could compromise our objectivity and independence.

14. This report is addressed to both SLAB and the Auditor General for Scotland and will be published on Audit Scotland's website www.audit-scotland.gov.uk in due course.

15. We would like to thank the management and staff who have been involved in our work for their cooperation and assistance during the audit.

Part 1

Audit of 2019/20 annual report and accounts



Main judgements

The financial statements of Scottish Legal Aid Board give a true and fair view of the state of affairs of the body as at 31 March 2020 and of the net expenditure for the year then ended; and have been properly prepared in accordance with the financial reporting framework.

An Emphasis of Matter paragraph has been included in the independent auditor's report to draw attention to the uncertainty relating to property valuations as a result of Covid-19. The audit opinion is not modified in respect of this matter.

Due to the impact of Covid-19, the accounts and subsequent audit was delayed. Management provided good support, and the year-end audit ran smoothly.

The annual report and accounts are the principal means of accounting for the stewardship of resources and performance.

Our audit opinions on the annual report and accounts are unmodified

16. The annual report and accounts for the year ended 31 March 2020 were approved by the board on 12 October 2020. We reported within the independent auditor's report that:

- the financial statements give a true and fair view and were properly prepared in accordance with the financial reporting framework expenditure and income were 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.

17. We have included an 'Emphasis of Matter' paragraph in our independent auditor's report which refers to the impact of Covid-19 on the valuations of land and buildings. Emphasis of Matter paragraphs are added to auditors' reports where the auditor considers it necessary to draw users' attention to matters which are fundamental to the understanding of the accounts. Note 44 in the financial statements describes the uncertainty caused. The audit opinion is not modified in respect of this matter. Further information is contained in [Exhibit 3](#).

The annual report and accounts were signed off later than planned as a result of Covid-19

18. The unaudited financial statements were received in line with our agreed audit timetable on 8 June 2020. However, the complete annual report and accounts, including the management commentary and performance report, was not received for audit until 2 August 2020 resulting in delayed completion of the audit. We kept

in regular communication with management throughout and revised the initial planned audit timetable as required.

19. The working papers provided to support the accounts were of a good standard. The audit team received good support from finance staff who responded quickly to audit queries which helped ensure the final accounts audit process ran smoothly, despite the challenges of working remotely.

The accounting framework was changed due to the Covid-19 pandemic

20. In May 2020, HM Treasury provided an addendum to the Financial Reporting Manual (FReM) which would permit some streamlining of the performance report, particularly the performance analysis section. SLAB decided that it would not reduce its disclosures and complied with the full disclosures included in the FReM.

Whole of Government Accounts

21. In accordance with the WGA guidance we will complete the required assurance statement and submit to the National Audit Office (NAO) by the revised deadline of 31 December 2020.

Materiality

22. The assessment of what is material is a matter of professional judgement. It involves considering both the amount and the nature of a misstatement in the financial statements.

23. On receipt of the unaudited annual report and accounts we reviewed our materiality calculations and concluded that they remained appropriate for both the Fund and the Board.

Exhibit 2

Materiality values

Materiality level	Scottish Legal Aid Fund	Scottish Legal Aid Board
Overall materiality	£1.476 million	£0.199 million
Performance materiality	£1.107 million	£0.150 million
Reporting threshold	£14,000	£2,000

Source: Scottish Legal Aid Board Annual Audit Plan 2019/20

Appendix 2 identifies the main risks of material misstatement and our audit work to address these

24. [Appendix 2](#) provides our assessment of risks of material misstatement in the annual report and accounts and any wider audit dimension risks. These risks

influence our overall audit strategy, the allocation of staff resources to the audit and indicate how the efforts of the audit team were directed. [Appendix 2](#) also identifies the work we undertook to address these risks and our conclusions from this work.


25. We undertook our planning work and issued our 2019/20 annual audit plan in November 2019, prior to the Covid-19 pandemic. In line with auditing standards and professional advice, including the updated Audit Planning Guidance, we reviewed our assessment of audit risks and the planned audit work in June 2020 and concluded that they remained relevant. There have not been any changes to audit risks or our audit approach, and there was no significant impact on the timing of our audit.

26. We have no issues to report from our work on the risks of material misstatement.

We have no significant findings to report on the annual report and accounts, except for as noted in [Exhibit 3](#)

27. International Standard on Auditing (UK) 260 requires us to communicate significant findings from the audit to those charged with governance, including our view about the qualitative aspects of the body's accounting practices. We have no significant findings to report around the qualitative aspects of the body's accounting policies or financial statements disclosures. We have two issues to report; one with accounting estimate and the other in relation to contingent liabilities. These significant findings are summarised in [Exhibit 3](#).

Exhibit 3 Significant findings from the audit of financial statements

Issue	Resolution
<p>1. Impact of Covid-19 on the valuations of land and buildings</p> <p>SLAB's land and buildings (£10 million) were revalued by an external valuer, Valuation Office Agency.</p> <p>The Valuation Office Agency's report contains a 'material valuation uncertainty' clause regarding the impact of Covid-19. It points out that a higher degree of caution should be attached to the valuation than would normally be the case.</p> <p>The unaudited accounts did not make reference to this material uncertainty.</p>	<p>We discussed this with finance staff who agreed to include an additional note providing appropriate disclosure on critical accounting estimates and judgements.</p> <p>We added an Emphasis of Matter paragraph to the independent auditor's report because we believe the disclosure is fundamental to users' understanding of the accounts.</p> <p>The audit opinion is not modified in respect of this matter.</p> <p>We have sought and received the Accountable Officer's assurances on management's assessment of the fair value of land and property in the ISA 580 representation letter.</p> <p> Recommendation 1</p> <p>(refer Appendix 1, action plan)</p>
<p>2. Contingent Liabilities</p> <p>Our audit work includes work to be assured that any cases of outstanding litigation are appropriately classified between provisions and contingent liabilities.</p>	<p>Through our discussion with officers we are satisfied that the annual report and accounts are based on the best available evidence at the year end.</p> <p>We have also sought specific management representation in this regard.</p>

Issue	Resolution
-------	------------

This includes the monitoring of post balance sheet events to ascertain whether any have occurred that would be indicative of a liability as at 31 March 2020.

Source: Audit Scotland

How we evaluate misstatements

28. It is our responsibility to request that all misstatements, other than those below the reporting threshold, are corrected although the final decision on making the correction lies with those charged with governance considering advice from senior officers and materiality. There were no misstatements in the annual report and accounts which have not been adjusted

Progress has been made on prior year recommendations

29. SLAB has made good progress in implementing our prior year audit recommendations. Those actions not yet implemented relate to financial sustainability, the performance indicators (as noted in paragraph 78), implementation of people strategy (as noted in paragraph 80) and a review of the governance arrangements for the Scottish Legal Aid pension fund. Revised responses and timescales have been agreed with management for these actions as set out in [Appendix 1](#).

Part 2

Financial management



Main judgements

The Scottish Legal Aid Board has demonstrated appropriate and effective financial management.

Due to the impact of Covid-19, a small underspend in the GIA budget was recorded in 2019/20.

Systems of internal control operated appropriately and effectively in 2019/20, with scope for improvements in some areas.

Financial management is about financial capacity, sound budgetary processes and whether the control environment and internal controls are operating effectively.

The Scottish Legal Aid Board operated within budget in 2019/20

30. The Scottish Legal Aid Board (the Board) is funded by Grant in Aid (GIA) for the administration costs of the organisation. The main financial objective is to operate within this GIA funding allocation. On a cash basis there was a small underspend of £0.3m for the year. The main reason provided for this was an underspend in staff and administration costs due to the impact of Covid-19 in the final few weeks of the financial year with some building renovation work unable to be completed in full and also fewer supplier invoices received and paid due to lockdown.

31. On an accruals basis the Board has reported an outturn of £17.7 million which is within its overall budget for 2019/20 and is an underspend of £1.7 million. The financial performance against Departmental Expenditure Limits (DEL) is shown in [Exhibit 4](#). The underspend of £1.7 million on an accruals basis is mainly due to a different classification of pension benefits paid in the year which results in an apparent underspend of £1.1 million on staff and administration costs. There are also smaller underspends against depreciation of £0.1 million and other pension costs of £0.4 million.

The Scottish Legal Aid Fund's expenditure increased by 5.8%

32. The Scottish Legal Aid Fund is a non-cash limited fund. This means that the Scottish Government has a statutory obligation to provide funding for the amounts paid to solicitors or counsel out of the fund. Therefore, while the Scottish Government sets an annual budget which it monitors throughout the year, the level of funding for the payments of legal aid is demand led.

33. At the Spring Budget Revision, the Scottish Government set a funding provision for the legal aid cash funding of £127.4 million for 2019/20. The actual cash spend for the year was £130.9 million. This represents an increase of 5.8% from actual cash expenditure on legal aid in 2018/19. Trends in the level of legal aid expenditure are analysed in detail and closely monitored by management and reported to the Board on an ongoing basis. Part of the increase in 2019/20 is due to the fees paid to firms increasing by 3% from April 2019 as a result of the legal aid review currently underway.

Exhibit 4

Performance against budget in 2019/20

	Initial budget £m	Final budget £m	Outturn £m	Over/(under) spend £m
SG Budget allocation	12.1	19.1	17.3	1.7
Capital DEL	0.1	0.1	0.1	-
Total DEL	12.2	19.2	17.4	1.7

Source: Scottish Legal Aid Board 2019/20 Annual Report and Accounts

2019/20 Financial Position

34. The Statement of Financial Position summarises what is owned and owed by SLAB. This shows taxpayers' equity – an accounting measurement of the amount invested that has continuing public benefit. It shows how much of this has arisen from the application of revenues and that which has resulted through changes over time in the value of physical assets.

35. The financial statements show at 31 March 2020 that:

- The Fund had net liabilities of £58.5 million. This mainly reflects the value of the pension liability and the provision for the future payments of legal aid on incomplete cases
- The Board had net liabilities of £112.0 million which is also due to the value of the pension liability.

36. Due to the net liability position of the Scottish Legal Aid Board and the Scottish Legal Aid Fund, the Scottish Government provide written assurance that they will continue to meet the statutory obligation to provide funding for future sums due out of the legal aid fund and the pension obligations arising from the pension scheme.

Budget process was appropriate

37. The main movement in year between the initial budget and the final budget relates to the inclusion of the pension funding which is provided by Scottish Government.

38. We observed that senior management and members receive regular and accurate financial information on the body's financial position. SLAB has appropriate budget setting and monitoring arrangements.

Financial systems of internal control are operating effectively

39. As part of our audit we identify and inspect the key internal controls in those accounting systems which we regard as significant to produce the financial statements. Our objective is to gain assurance that SLAB has systems of recording and processing transactions which provide a sound basis for the preparation of the financial statements.

40. Due to the impact of Covid-19 we experienced delays in the completion of our interim audit work as a result of finance and audit staff working from home. This work has now been completed.

41. No significant internal control weaknesses were identified during the audit which could affect the body's ability to record, process, summarise and report financial and other relevant data to result in a material misstatement in the financial statements. This enables us to take assurance for our audit of the 2019/20 financial statements as planned. However, we did identify two areas where controls could be further strengthened, and these are noted below:

- **Payroll to general ledger reconciliations:** due to ongoing issues with reporting from the Oracle system, the payroll to general ledger reconciliation was not completed during 2019/20. A work-around solution was devised to allow the year-end reconciliation to be completed.
- **System access:** IT undertook a review of system access in July 2019. Our review of these returns found that some were not completed until March 2020 due to SLAB staff awaiting detail on the roles from the system. This delay increased the risk of inappropriate access. In addition, internal audit noted that members of HR and payroll had access that exceeded their operational needs. Mitigating controls have been implemented.



Recommendation 2

The Scottish Legal Aid Board should continue to work with the software provider to further develop reporting tools which will help strengthen controls.

Internal audit

42. The body's internal audit function is carried out by an internal team of Scottish Legal Aid Board staff overseen by the Head of Internal Audit. The Public Sector Internal Audit Standards (PSIAS) require the 'chief audit executive' to provide an annual internal audit opinion and report that can be used to inform the annual governance statement. A 'Satisfactory' opinion was provided for 2019/20 which is defined as having a generally sound framework of control which provides reasonable assurance regarding the effective and efficient achievement of SLAB's objectives.

43. We reviewed the body's internal audit function in terms of International Standard on Auditing (UK) 610 (Using the Work of Internal Auditors) to determine the extent to which we could use the work of internal audit. We have placed reliance on the work of internal audit in the following areas for our 2019/20 financial statements and wider dimensions audit responsibilities:

- Payments, Receipts and Banking
- Payroll and Pensions
- Operations – Civil Finance Collection Contributions
- Operations – Civil Finance Principal/Capital Sums

Standards of conduct and arrangements for the prevention and detection of fraud and error are appropriate

44. SLAB is responsible for establishing arrangements for the prevention and detection of fraud, error and irregularities. Furthermore, the board is responsible for

ensuring that its affairs are managed in accordance with proper standards of conduct by putting effective arrangements in place.

45. We have reviewed the arrangements in place to maintain standards of conduct including the Fraud Policy, Staff Handbook and Civil Service and Members' Codes of Conduct). There are established procedures for preventing and detecting any breaches of these standards including any instances of corruption.

46. We reported in 2018/19 that the Fraud Policy had not been updated since 2014. As part of the agreed action plan, a review of the policy was due to be completed by 31 January 2020. This review has been undertaken, however the outcome and the updated Fraud Policy have yet to be communicated to staff. This was also noted as a finding in the Internal Audit Best Value report.



Recommendation 3

The Scottish Legal Aid Board should finalise its revised Fraud Policy and ensure sufficient internal communication to ensure staff awareness of the policy.

Arrangements for preventing fraud and corruption in the procurement function are appropriate

47. Our consideration of financial management includes evaluating the arrangements in place for preventing and detecting fraud and corruption. Instances of fraud and corruption can be particularly prevalent in the procurement function.

48. As reported in the Annual Audit Plan, we planned to place reliance on the work of Internal Audit in this area. Their report, Sustainable Development in Procurement, coupled with audit assurance gained from testing on payments, provides coverage on many aspects of Audit Scotland's Red Flags in Procurement.

49. Further audit work is planned in 2020/21 to ensure full coverage of the controls identified within the Red Flags report.

Part 3

Financial sustainability



Main judgements

The Scottish Legal Aid Board has medium financial plans and is progressing long-term financial plans underpinned by a detailed workforce strategy.

Due to the impact of Covid-19, progress in delivering the Guidance on the Administration of Legal Aid project (GALA) and the People Strategy has been delayed.

Financial sustainability looks forward to the medium and longer term to consider whether a body is planning effectively to continue to deliver its services or the way in which they should be delivered.

The Board's 2020/21 budget will be challenging

50. The Board are funded by Grant in Aid from Scottish Government. The 2020/21 draft budget was approved in March 2020 with a resource allocation of £11.7 million which is a flat-cash position from the 2019/20 budget allocation.

51. The 2020/21 budget shows a challenging position reflecting the impact of financial pressure, in particular the Scottish Government pay policy. The approved budget includes a funding gap of £0.109 million. It is anticipated that the funding gap will be met by in year savings on vacancies and utilising the brought forward bank balance.

52. Savings of £0.150 million from staff vacancies have been built into the 2020/21 budget. As we have reported previously in 2018/19, the use of vacancy management is not sustainable in the longer term. SLAB have recognised this and have undertaken scenario planning exercises to further inform and develop longer term solutions. However, with 85% of costs being attributable to staff costs, it is essential that while financial pressures exist that a longer-term financial plan is developed underpinned by robust workforce plans.

53. In approving the 2020/21 budget, SLAB also provided draft figures for 2021/22. The budget reflects a funding pressure of £0.415 million and this is due to the continued pressure of expected pay awards. In the budget report SLAB acknowledge that the 2021/22 funding gap will not be able to be funded by vacancy management alone.

54. The last quarterly budget review for 2020/21 shows a small surplus for 20/21 mainly due to the impact on home working on building costs net savings and the latest staffing position.

Legal Aid Fund

55. As noted in paragraph 32 the Fund is a non-cash limited fund. SLAB regularly provide an update on Fund forecasts to both the Scottish Government and the Board. This typically provides a review of the funding for 3 years. It is recognised that the impact of Covid-19 on the Fund remains unknown, but it is expected to be

substantial due to the suspension of court cases and delays in duration of cases. Work is underway to further develop models for the impact of Covid-19.



Recommendation 4

A long-term financial strategy, which aligns with the workforce strategy should be developed.

Transformation projects have been delayed

56. The key transformation programme within SLAB is the GALA project (Guidance on Administration of Legal Aid). This project is considering the future design and delivery of the legal aid system and aims to improve SLAB's internal decision-making framework, ensuring consistency and transparency in applications for legal aid funding and payment of accounts.

57. Running in parallel with the GALA project is the development of the People Strategy which was approved in 2018/19. One of the key parts of the People Strategy is the development of a workforce plan. Due to the impact of Covid-19 and the potential implications it will have for the homeworking and the delivery of services, the ongoing work on the workforce plan has been delayed. Further detail in Section 5.

58. Given that 85% of expenditure relates to staff costs the lack of robust workforce planning will impact on the immediate budget pressures.

Legal Aid Review

59. In February 2018, the outcome of the independent review of Legal Aid commissioned by the Scottish Government was published. SLAB was involved in this review by providing evidence and assistance to the Review panel. A formal response to the Review's findings was issued by the Scottish Government in November 2018. The most immediate impact was the implementation of a 3% increase in fees paid to solicitors for legal aid work from April 2019.

60. During the year, SLAB have also provided evidence and support for the Scottish Government's legal aid payment advisory panel. This along with the legal aid review and the impact on the justice system as a result of Covid-19 make it crucial that the potential financial consequences be reflected wherever possible in SLAB's long-term financial plans.

Part 4

Governance and transparency



Main judgements

The Covid-19 pandemic has impacted governance arrangements; however they have remained appropriate and effective.

SLAB has adapted to the changed operating environment allowing delivery of services and decision making to continue.

Governance and transparency is concerned with the effectiveness of scrutiny and governance arrangements, leadership and decision-making and transparent reporting of financial and performance information.

Overall governance and transparency arrangements were appropriate

61. We commented on governance arrangements in 2018/19 and our previous year's conclusion is still relevant, that 'overall SLAB has appropriate governance arrangements', as there have been no significant changes during 2019/20, with the exception of specific comments below on the response to the Covid-19 outbreak in March 2020. The governance and transparency arrangements we consider include:

- board and committee structure and conduct
- overall arrangements and standards of conduct including those for the prevention and detection of fraud, error, bribery and corruption. This includes action in response to the National Fraud Initiative
- openness of board and committees
- public access to information via websites
- reporting of performance and whether this is fair, balanced and understandable.

The Covid-19 pandemic impacted on governance arrangements

62. A paper on the updated governance arrangements was presented to the Board on 23 March 2020. This noted that overall governance arrangements would remain in place with Board and committee meetings being on undertaken by video conference. We also note:

- Almost all staff have been working remotely from home since March 2020 following the UK government's lockdown guidance
- Finance staff have reconfigured processes to allow payments and other financial transactions to take place remotely. Management has confirmed that segregation of duties and other key controls remain in place

- A four-point plan was issued to the legal profession on changes to the legal aid aimed at supporting cashflow for the profession and to enable new ways of working in the justice system.

63. We have had preliminary discussions with staff and management about these new arrangements and due to the timing of audit work, we were able to test some of these updated processes.

64. Overall, SLAB has been proactive in dealing with the changed operating environment. The scale and pace of change as a result of Covid-19 poses a risk to the key financial controls within SLAB and management should continue to ensure that the new processes are effective and that there is sufficient, well-documented governance to inform and support all decisions.



Recommendation 5

SLAB should continue to ensure that internal controls remain effective during this period of uncertainty, with homeworking and changes to the justice system.

Openness and transparency

65. There continues to be an increasing focus on demonstrating the best use of public money. Openness and transparency in how a body operates and makes decisions is key to supporting understanding and scrutiny. Transparency means that the public have access to understandable, relevant and timely information about how the board is taking decisions and how it is using resources such as money, people and assets.

66. There is evidence of SLAB's commitment to improving transparency including:

- Pilot undertaken to increase public availability of board papers and to provide more insight into why some business is conducted in private
- The development of the form and content of annual reports.

67. However, the annual review of Best Value undertaken by Internal Audit identified some out of date information on SLAB's website: The Business Plan 2019/20 has not been published; the Register of Interests for Board Members is dated September 2017. We reported similar findings in our 2018/19 Annual Audit Report.



Recommendation B/f 3

The corporate information on the website should be clear, accessible and kept up to date.

The performance report was of a generally good standard with some omissions amended

68. In addition to the opinion on the performance report covered in Part 1 of our Annual Audit Report, we also consider the qualitative aspects of the body's performance report. The performance report should provide information on a body,

its main objectives and the principal risks faced. It should provide a fair, balanced and understandable analysis of a body's performance as well as helping stakeholders understand the financial statements.

69. We had reported weaknesses in the performance report in 2018/19 and considerable progress has been made to address the issues identified. The performance report provided for audit was found to be generally compliant with the requirements of the FReM. However, there were a number of improvements identified to further enhance compliance. These relate to the disclosures on fraud and corruption/bribery and the critical judgements relating to the legal aid provision and the impact of Covid-19 on asset valuations. Both omissions were amended in the revised accounts.

Part 5

Value for money



Main judgements

The Scottish Legal Aid Board has an appropriate best value framework in place with an annual assessment reported to both the Board and the Audit Committee.

Operational performance in assessing applications is reported as good but is more mixed in accounts processing and payment. Levels of accuracy remain above 95% of applications checked.

Progress on the further development of the People Strategy has been delayed due to the impact and longer-term implications of Covid-19.

Value for money is concerned with using resources effectively and continually improving services.

SLAB has developed an appropriate Best Value framework

70. *Ministerial guidance to Accountable Officers* for public bodies and the *Scottish Public Finance Manual* (SPFM) sets out the accountable officer's duty to ensure that arrangements are in place to secure best value. The guidance sets out the key principles of best value and the requirement to have a systematic approach to self-evaluation and continuous improvement.

71. Internal Audit undertake an annual assessment of the processes in place to meet the key themes of Best Value, the results of which are formally reported by Internal Audit to the Audit Committee. The outcome was also formally presented to the Board on 15 June 2020. The results of the assessment in 2019/20 were graded as satisfactory across the following areas: Vision and Strategic Direction; Effective Partnerships; Governance and Accountability; Planning and Resource Alignment; Performance Management; Sustainability; and Equalities.

Performance levels were largely in line with agreed targets

72. Performance reports are reported to the board. The SLAB Operational Performance Overview (SOPOR) reports performance in areas such as the time taken to assess and make payments, the standards of accuracy in legal aid assessments; and finance/budget monitoring reports.

73. The report on operational performance at 31 March 2020 notes that performance in assessing applications is generally good, in particular with civil and children's cases. As with the prior year, there is a more mixed performance in accounts processing and payment. The levels of accuracy which are assessed by the Internal Quality Control unit remain high with typical levels of compliance being above 95% of applications.

74. The current SOPOR was only developed by SLAB towards the end of 2018/19. The draft performance report did not provide for comparison data. The lack of prior year data makes it difficult to assess if improvements are being made or if performance targets are sufficiently challenging. Providing comparative data would allow for a more transparent assessment of performance trends. This was

amended in the revised accounts, with data from 2018/19 being linked in the report.

75. We had reported in 2018/19 that SLAB had recognised the need to develop performance indicators for corporate functions such as Human Resources, Finance and ICT to better demonstrate the effective use of resources. Performance on paying suppliers is reported as required by Scottish Government. Additionally, sickness absence data, staff leavers and vacancy data are also reported as part of the administration and finance resource report. However, the scope for reporting performance in other areas are still being developed in conjunction with the updated Corporate Plan.



Recommendation B/f 1

SLAB should develop a range of performance targets and agreed benchmarks for measuring corporate objectives and outcomes.

Development of the Workforce Plan

76. As reported in para. 54, staff costs comprise 85% of the Board's administration budget. Therefore, the effective management of the staff resource is critical. We reported in 2018/19 that progress had been made, with the People Strategy being approved in June 2019. The 2019/20 business plan included an analysis of skill needs to support the development of an overall future workforce plan. The impact of Covid-19 has significantly impacted the delivery of this strategy/plan. Key staff have been diverted to managing the response to Covid-19. Additionally, SLAB have recognised that Covid-19 may have profound effect on ongoing delivery of services and the workforce in the future. The impact of the ongoing legal aid review and the updated Corporate Plan should also be considered.

77. Given the significance of the impact of staff costs on the administration budget, the development of a workforce plan which integrates with the Board budget, the corporate plan and the legal aid changes should be implemented.



Recommendation B/f 2

The development of a workforce plan based on a comprehensive skills assessment, should continue to be a priority for SLAB.

National performance audit reports

78. Audit Scotland carries out a national performance audit programme on behalf of the Accounts Commission and the Auditor General for Scotland. In 2019/20 several reports were published which are of direct interest to the body. These are outlined in [Appendix 3](#).

79. There are well established arrangements for considering national reports at the Audit Committee and discussing any implications for SLAB.

Appendix 1

Action plan 2019/20



No.	Issue/risk	Recommendation	Agreed management action/timing
1	<p>Asset Valuation</p> <p>Due to the impact of Covid 19, materiality uncertainty exists in relation to the building valuation of Thistle House recorded within the financial statements.</p> <p>Risk</p> <p>There is a risk that the carrying value of the asset in accounts does not accurately reflect the market uncertainty.</p>	<p>SLAB should consider the impact of ongoing uncertainty on valuations.</p> <p>Exhibit 3</p>	<p>A further valuation will be undertaken during 2020/21 to reflect any changes in the commercial property market.</p> <p>Graeme Hill</p> <p>During 2020/21</p>
2	<p>Controls weaknesses</p> <p>Our review of internal controls identified areas for improvement with payroll reconciliations and we note an issue with payroll access reported by Internal Audit. We are content that mitigating controls have been implemented to address these risks.</p> <p>Risk</p> <p>There is a risk that the system access rights may be inappropriate, and that systems are not being fully reconciled.</p>	<p>SLAB should continue to work with the software provider to develop appropriate user roles and system reports.</p> <p>Paragraph 41</p>	<p>We will continue to work with our software provider to develop appropriate solutions.</p> <p>Graeme Hill</p> <p>Ongoing</p>
3	<p>Fraud Policy</p> <p>We reported in our Management letter that the current fraud policy required to be reviewed. This review was undertaken, however the updated policy has yet to be communicated to staff.</p> <p>Risk</p> <p>There is a risk that staff are unaware of the fraud policy</p>	<p>SLAB should implement the updated Fraud Policy, and this should be supported with a staff awareness campaign.</p> <p>Paragraph 46</p>	<p>We will issue and communicate the current fraud policy to staff</p> <p>Graeme Hill</p> <p>Nov 2020</p>



No.	Issue/risk	Recommendation	Agreed management action/timing
	and that fraud is not correctly reported or monitored.		
4	<p>Financial sustainability</p> <p>SLAB currently receive one-year grant settlements from Scottish Government. The approved budget for 2020/21 included indicative figures for 2021/22.</p> <p>Over the past years, SLAB have developed the use of scenario planning to identify opportunities for savings.</p> <p>Risk</p> <p>There is a risk that there is no formal long-term financial plan which considers long term financial sustainability.</p>	<p>SLAB should continue to work on the development of a long-term financial plan that is fully integrated with workforce planning.</p> <p>Paragraph 52</p>	<p>A long-term financial plan will be produced once the new workforce plan is in place.</p> <p>Graeme Hill</p> <p>May/June 2021</p>
5	<p>Ongoing impact of co-vid</p> <p>The scale and pace of change as a result of Covid-19 represents a risk to SLAB's internal controls and governance arrangements.</p> <p>Risk</p> <p>There are risks around the operation of key controls within finance and the introduction of changes to accounts within the justice system.</p>	<p>SLAB should ensure that internal controls remain effective during this period of uncertainty with new ways of working and changes to the justice system.</p> <p>Paragraph 67</p>	<p>We will continue to review our internal controls as the Covid-19 situation develops and in line with Justice system changes and Scottish Government requirements.</p> <p>Graeme Hill</p> <p>Ongoing</p>

Follow up of prior year recommendations

B/f 1	<p>Performance Report</p> <p>The performance report included in the unaudited accounts contained a considerable number of omissions when compared against the requirements of the FReM. This was amended in the revised report.</p> <p>Risk</p> <p>There is a risk that future performance reports do not provide a full analysis of SLAB's performance against its corporate objectives and</p>	<p>SLAB should ensure that the performance report contained in the annual accounts provides full information in line with the requirements of the FReM.</p> <p>It should also describe progress against target objectives and outcomes performance levels should be compared against the agreed benchmarks.</p>	<p>In progress</p> <p>Overall, the performance report contained within the draft accounts was much improved with only minor changes required.</p> <p>SLAB should continue to develop a range of corporate benchmarks which allows corporate performance to be more transparent.</p> <p>Management Response:</p> <p>These benchmarks will be developed in line with the new Corporate Plan.</p>
----------	--	---	--



No.	Issue/risk	Recommendation	Agreed management action/timing
	outcomes and operational targets.		Graeme Hill/Anne Dickson 31 March 2021
B/f 2	<p>Financial Sustainability</p> <p>The 2019/20 budget shows a challenging position reflecting the impact of financial pressures of implementing pay awards. A funding gap of £0.090 million has been identified for 2019/20 and the approved budget highlights vacancy savings of £0.265 million (2018/19 £0.400million). The use of vacancy management to address funding gaps is not sustainable over the long term. A workforce plan has yet to be developed to inform future strategic and financial planning.</p> <p>Risk</p> <p>In the absence of a workforce plan, there is a risk that the over reliance on vacancy management may have an adverse impact on staff capacity and the quality of services.</p>	<p>With the recent introduction of the People Strategy, SLAB should develop its workforce plan as a priority to help inform longer term strategic and financial planning.</p>	<p>Ongoing</p> <p>Due to the impact of Covid-19 progress in the delivery of workforce planning has been impacted. The Board funding position of 2021/21 and 2021/22 remain challenging</p> <p>Management Response:</p> <p>A workforce plan will be developed to tie in with the new Corporate plan. Once this is available, we will undertake long term financial planning.</p> <p>Graeme Hill June 2021</p>
B/f 3	<p>Public & Performance Reporting</p> <p>Following on from completion of the openness & transparency pilot, the information approved for publication should be published on the website in a timely manner. Additionally, the performance information currently published is out of date.</p> <p>Risk</p> <p>There is a risk that SLAB does not conduct its business in an open and transparent manner.</p>	<p>SLAB should ensure that performance information on the website is always kept up to date.</p>	<p>Ongoing</p> <p>Both external and internal audit noted during 2019/20 that not all corporate information on the website was accessible and up to date.</p> <p>Management Response:</p> <p>We will keep the website under review to ensure that corporate information is kept up to date and accessible.</p> <p>Andrew McIntosh Ongoing</p>
B/f 4	<p>Scottish Legal Aid Pension Scheme Governance</p> <p>The governance arrangements for the Scottish Legal Aid Pension Scheme, including the</p>	<p>The governance arrangements for the Scottish Legal Aid Pension Scheme should be formally documented and approved by the Board.</p>	<p>Management Response:</p> <p>The key governance arrangements are shared between SLAB and SPPA. A meeting will be arranged with</p>



No.	Issue/risk	Recommendation	Agreed management action/timing
	<p>role and responsibilities of pension fund trustees, has not been formally documented and it is unclear when these were last approved by the Board.</p> <p>Risk</p> <p>There is a risk that the formal arrangements for the governance of the Legal Aid Pension Scheme are unclear and not fully understood by stakeholders.</p>		<p>SPPA to more formally document these arrangements.</p> <p>Graeme Hill</p> <p>Feb 2021</p>

Appendix 2

Significant audit risks identified during planning

The table below sets out the audit risks we identified during our planning of the audit and how we addressed each risk in arriving at our conclusion. The risks are categorised between those where there is a risk of material misstatement in the annual report and accounts and those relating to our wider responsibility under the [Code of Audit Practice 2016](#).

Audit Risk	Assurance procedure	Results and conclusions
Risks of material misstatement in the financial statements		
<p>1 Risk of material misstatement caused by management override of controls</p> <p>Auditing Standards require that audits are planned to consider the risk of material misstatement caused by fraud, which is presumed to be a significant risk in any audit. This includes the risk of management override of controls that results in fraudulent financial statements</p>	<ul style="list-style-type: none"> • Detailed testing of journal entries. • Review of accounting estimates. • Focused testing of accruals and prepayments. • Evaluation of significant transactions that are outside the normal course of business. • Completion of cut-off testing to ensure transaction appropriately recorded in the correct year. 	<p>Results: Detailed testing was carried out on journal entries and accounting estimates and no issues were identified.</p> <p>Our testing of accruals and prepayments did not identify any errors and our work on income and expenditure did not identify any significant transactions outside the normal course of business.</p> <p>Conclusion: We did not identify any issues which would indicate management override of controls.</p>
<p>2 Risk of material misstatement caused by fraud in income recognition</p> <p>As set out in ISA 240, there is a presumed risk of fraud in the recognition of income. Scottish Legal Aid Board receives a material amount of income from external sources including income from claimant contributions. Due to the extent and complexity of income there is the risk of a material misstatement in the financial statements.</p>	<ul style="list-style-type: none"> • Analytical procedures on income streams. • Detailed testing of revenue transactions focusing on the areas of greatest risk. • Review of the work of SLAB's Internal Quality Control Unit (IQC). 	<p>Results: Our testing of income transactions did not identify any issues.</p> <p>The work completed by IA on the IQCU reported an accuracy level of over 95% in relation to legal aid accounts paid.</p> <p>Conclusion: There is no evidence of fraud in income recognition.</p>
<p>3 Risk of material misstatement caused by fraud in expenditure</p> <p>As most public-sector bodies are net expenditure bodies, the risk of fraud is more likely to occur in expenditure.</p>	<ul style="list-style-type: none"> • Review of the work of SLAB's Compliance Audit and Assisted Persons Investigations Teams. • Testing of expenditure transactions focusing on the areas of greatest risk. 	<p>Results: Our testing of expenditure transactions did not identify any errors.</p> <p>We reviewed the findings of the Compliance Audit Team and the Assisted Person's Investigations team which confirmed SLAB</p>

The majority of expenditure by SLAB relates to the payment to solicitors to cover the costs of legal aid billing and the provision of advice. This is an area of potential fraud by solicitors and claimants.

- Review of the work of SLAB's IQCU team.

remain proactive in their reviews of registered firms and legal aid accounts.

The work completed by IA on the IQCU reported an accuracy level of over 95% in relation to legal aid accounts paid.

Conclusion: While there remains an inherent risk, SLAB has appropriate procedures in place to ensure to detect fraud in relation to expenditure.

4 Risk of material misstatement caused by estimates and judgements in the valuation the Legal Aid provision and pensions

The financial statements include a provision for live legal aid cases which remain unbilled at the year-end. The calculation of the provision value is based on an internally developed model which includes a significant degree of estimation in the range of data used in valuing cases. In addition, the pension figures within the financial statements also include a significant degree of estimation. The value of the provision and pensions is material and as such represents an increased risk of misstatement in the financial statements.

- A review of the process for calculating the provision.
- Assess the reasonableness and accuracy of the assumptions and data used.
- A full review of all key variables within the model and agreement to supporting documentation.
- Focused substantive testing of key areas.
- A review of the disclosures made to support the provision.
- A review of payments made in 2019/20 compared to the provision to provide assurance over the accuracy of the assumptions.
- Review of actuarial assumptions made in the valuation of pension liability.

Results: Detailed testing of the legal aid provision and the supporting disclosures did not identify any issues.

The work done to assess the accuracy of the data and assumptions underlying the provisions model appeared robust and had been subject to annual review on key variables.

Review undertaken on actuarial assumptions by management and these were consistent with our findings.

Conclusion: The value of the legal aid provision at 31 March 2020 is modelled on robust data and a range of well-established assumptions which are evidence based and subject to regular review for accuracy.

No issues to report with actuarial assumptions.

5 New payroll system

SLAB introduced a new payroll system in April 2019. As the new system will be used for the production of payroll figures for the 2019/20 financial statements, there is an increased risk of misstatement in the figures and balances.

- Review and testing of the controls in place within the new payroll system.
- Confirm the completeness and accuracy of balances transferred from the old to the new payroll system.

Results: We did not identify any weaknesses in our review of the control environment of the new payroll system. One recommendation has been made in relation to payroll reconciliations. However, we were able to gain assurance on the completion of the year-end reconciliation.

See Appendix point 1

The transfer of balances from the old to the new system appear to be complete and accurate.

In addition, we were able to rely on the work carried out on the new payroll system by Internal Audit.

Conclusion: No significant control weaknesses were

identified within the payroll system.

6 Annual performance report

As reported in our 2018/19 annual audit report, the draft performance report did not fully meet FReM requirements and did not detail progress against target objectives and outcomes or the performance levels to be assessed.

There is a risk that the performance report will not meet the requirements of the FReM and that SLAB will be unable to demonstrate improvements, best value and the achievement of corporate objectives.

- Review of the draft report against FReM requirement and Audit Scotland's Good Practice note.
- Review performance reports to the Board to ensure consistency.

Results: The performance report included new measures that were developed during the year. The draft provided for audit represented an improvement on previous years.

Performance reporting to the Board takes place on a regular basis.

Conclusion: The reporting of performance has improved in 2019/20.

Risks identified from the auditor's wider responsibility under the Code of Audit Practice

5 Financial sustainability

The 2019/20 budget reflected a challenging position for SLAB with financial pressures arising due to the implementation of pay awards. Further funding gaps are anticipated going forward with flat cash settlement expected from Scottish Government. Around 80% of SLAB's budget relates to staff costs and the impact of future pay settlements will be significant. There is also little room to make savings in other areas. Currently vacancy management is being used to address some of the funding gap and there is a risk that SLAB may be unable to deliver its strategic objectives and respond to the ongoing Legal Aid Review.

- Review the 2020/21 budgets and responses to ongoing funding shortfalls
- Assessment of the adequacy of the SLAB's longer-term financial management arrangements.
- Monitor SLAB's financial position through budget monitoring reports presented to the board.

The 2020/21 budget approved by SLAB shows and over-commitment. As in previous year's, this will be met with existing cash balances and vacancy management. As reported previously, the use of vacancy management is not sustainable

In approving the 2020/21 budget, SLAB also provided draft figures for 2021/22. Due to the continued pressure of pay awards, in the budget report SLAB acknowledge that the 2021/22 funding gap will not be able to be funded by cost control & vacancy management.

Scenario planning has been undertaken to further inform and develop longer term solutions.

A risk to financial sustainability remains

Appendix 3, bf 2

Appendix 3

Summary of national performance reports 2019/20

		 2019/20 Reports	
		Apr	
Social security: Implementing the devolved powers		May	
Scotland's colleges 2019		Jun	 Enabling digital government
		Jul	
NHS workforce planning - part 2		Aug	
Finances of Scottish universities		Sept	
NHS in Scotland 2019		Oct	
		Nov	
Local government in Scotland: Financial overview 2018/19		Dec	
Scotland's City Region and Growth Deals		Jan	 Privately financed infrastructure investment: The Non-Profit Distributing (NPD) and hub models
		Feb	
		Mar	 Early learning and childcare: follow-up

Central Government relevant reports

[Social security: Implementing the devolved powers](#) – May 2019

[Enabling digital government](#) – June 2019

[Scotland's City Region and Growth Deals](#) – October 2019

[Privately financed infrastructure investment: The Non-Profit Distributing \(NPD\) and hub models](#) – Jan 2020

[Early learning and childcare: follow-up](#) – March 2020

Scottish Legal Aid Board

2019/20 Annual Audit Report

If you require this publication in an alternative format and/or language, please contact us to discuss your needs: 0131 625 1500 or info@audit-scotland.gov.uk

For the latest news, reports and updates, follow us on:



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