

Scottish Legal Aid Board

2020/21 Annual Audit Report



 AUDIT SCOTLAND

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

6 December 2021

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Key messages

2020/21 annual report and accounts

- 1 Our audit opinions on the annual accounts are unmodified.
- 2 The Covid-19 pandemic had an impact on the auditing timetable for the 2020/21 financial statements and as a result the conclusion of the audit was delayed to 6 December.

Financial management and sustainability

- 3 SLAB has appropriate and effective financial management arrangements in place and operated within its revised Departmental Expenditure Limit.
- 4 SLAB have adapted their systems of internal control to reflect new ways of working and have maintained standards for the prevention and detection of fraud and error.

Financial sustainability

- 5 SLAB have responded quickly to the Covid-19 pandemic allowing them to continue to provide services to the legal profession and the public.
- 6 SLAB should develop a medium to long term workforce plan, including succession planning of key posts, to support the organisation's strategic objectives in the longer term.

Governance, transparency and value for money

- 7 SLAB has appropriate and effective governance arrangements in place and these were operational during Covid-19 with no significant impact on the organisation, decision making or scrutiny.
- 8 SLAB has an appropriate and effective best value framework in place with an annual assessment reported to both the board and the Audit Committee. Performance management and monitoring of key performance indicators has continued throughout 2020/21.

Introduction

1. This report summarises the findings from our 2020/21 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 14 June 2021 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](#).
3. The main elements of our audit work in 2020/21 have been:
 - an audit of SLAB's 2020/21 annual report and accounts including the issue of an independent auditor's report setting out our opinions
 - a review of the key financial systems used by SLAB
 - consideration of the four audit dimensions.
4. The global coronavirus pandemic has had a considerable impact on SLAB during 2020/21 specifically from the closure of the court service. This has had significant implications for the services it delivers, the suspension of non-essential projects and activities. Risks related to the pandemic were included in our annual audit plan, and we have adapted our planned audit work to address any new emerging risks.

Adding value through the audit

5. We add value to the body 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

6. 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.

- 7.** The body is also responsible for establishing appropriate and effective arrangements for governance, propriety and regularity.
- 8.** 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.
- 9.** 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.
- 10.** Our annual audit report contains an agreed action plan at [Appendix 1](#). It sets out specific recommendations, the responsible officers and dates for implementation. It also includes any outstanding actions from last year and progress against these.

Auditor Independence

- 11.** 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.
- 12.** 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 2020/21 audit fee of £45,220 as set out in our Annual Audit Plan remains unchanged. We are not aware of any relationships that could compromise our objectivity and independence.
- 13.** This report is addressed to both the body and the Auditor General for Scotland and will be published on Audit Scotland's website www.audit-scotland.gov.uk in due course.
- 14.** We would like to thank the management and staff who have been involved in our work for their cooperation and assistance during the audit.

1. Audit of 2020/21 annual report and accounts

The principal means of accounting for the stewardship of resources and performance

Main judgements

Our audit opinions on the annual accounts are unmodified.

The Covid-19 pandemic had an impact on the auditing timetable for the 2020/21 financial statements and as a result concluding the audit was delayed to 6 December.

Our audit opinions on the annual report and accounts are unmodified

15. The annual report and accounts for the year ended 31 March 2021 were approved by the Audit Committee on 6 December 2021. As reported in the independent auditor's report:

- 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.

The Covid-19 pandemic had a limited impact on audit evidence

16. The completeness and accuracy of accounting records and the extent of information and explanations that we required for our audit were not significantly affected by the Covid19 outbreak.

17. The working papers provided to support the accounts were of a good standard and the audit team received support from finance staff which helped ensure the audit process ran smoothly.

Whole of Government Accounts

18. In accordance with the WGA guidance, we will be completing the required assurance statement and submit it to the National Audit Office (NAO) by the revised deadline, which has yet to be confirmed.

Materiality

19. We set two materiality levels, one for the Scottish Legal Aid Fund and one for the Scottish Legal Aid Board. Our initial assessment of materiality was carried out during the planning phase of the audit. This was reviewed on receipt of the unaudited annual report and accounts and is summarised in [Exhibit 1](#). There were no changes to our materiality levels.

Exhibit 1 Materiality values

Materiality level	Scottish Legal Aid Fund	Scottish Legal Aid Board
Overall materiality	£1.1 million	£200,000
Performance materiality	£800,000	£131,000
Reporting threshold	£11,000	£2,000

Source: 2020/21 SLAB Unaudited Annual Report and Accounts

[Appendix 2](#) identifies the main risks of material misstatement and our audit work to address these

20. [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.

21. We noted in our 2020/21 Annual Audit Plan, a risk of material misstatement in relation to interim payments made to solicitors under Covid-19 legislation. The impact of these payments and the accounting treatment in relation to the Legal Aid provision has been considered as part of our financial statements work. We noted that SLAB were unable to separately identify and produce a report that related to interim payments solely made as a result of the Covid-19 legislation, this is due to how the cases are recorded in the system. SLAB did not create a separate category in their system to separately identify Covid-19 interim payments. As a result we reviewed a sample from all the interim payments made by SLAB during 2020/21. We checked that these have been correctly accounted for and removed from the overall provision calculation. We are satisfied that these have been accurately recorded within the financial statements with no significant findings.

22. However, as part of our testing we did identify a number of cases on the system that were over 10 years old with some dating back to 1992. Interim payments made are deducted from the final accounts received from solicitors, however SLAB cannot compel solicitors to submit final accounts (e.g. close a case) therefore SLAB will only know if the interim payments have resulted in an over or under payment once a case is closed, meaning they remain on the system indefinitely. Whilst it is appreciated that some cases in the legal system will take time to resolve, we recommend that SLAB should continue to review older cases on the system. The anticipated new Legal Aid Bill may address this issue but it is too early to determine with the Bill due to be finalised by 2024.

23. 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.

We have no significant findings to report on the annual report and accounts

24. 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 or issues to report from the audit.

Progress was made on prior year recommendations

25. SLAB has made good progress in implementing our prior year audit recommendations. There are a number of actions that have yet to be fully implemented. Revised responses and timescales have been agreed with management, and are set out in [Appendix 1, follow up of prior year recommendations](#).

2. Financial management

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

Main judgements

SLAB has appropriate and effective financial management arrangements in place and operated within its revised Departmental Expenditure Limit.

SLAB have adapted their systems of internal control to reflect new ways of working and have maintained standards for the prevention and detection of fraud and error.

Scottish Legal Aid Board operated within its revised budget in 2020/21 and reported a £1.6 million underspend

26. The Scottish Legal Aid 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. The financial performance against Departmental Expenditure Limits (DEL) is shown in [Exhibit 2](#).

27. SLAB have underspent against the Board budget by £1.6 million. The spend noted in [Exhibit 2](#) is shown on an accruals basis. The underspend is mainly due to a different classification of pension benefits in the year which resulted in a variance of £1.3 million. Staff costs increased in the year with senior employees retiring which increased pension costs. These have been partially offset by restructuring in departments. Running costs also increased with the purchase of personal protective equipment and works completed on Thistle house to ensure compliance with social distancing rules. The Scottish Government approved the transfer of revenue to capital to facilitate the purchase of equipment and software for more efficient home working.

Exhibit 2 – Scottish Legal Aid Board Performance against DEL in 2020/21

Performance	Initial budget £m	Final budget £m	Outturn £m	Over / (under) spend £m
Resource DEL	12.3	18.9	17.3	(1.6)
Capital DEL	0.1	0.2	0.2	(0.0)
Total Outturn	12.4	19.1	17.5	(1.6)

Source: Scottish Legal Aid Board Annual Accounts 2020/21

Scottish Legal Aid Fund (SLAF)

28. 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.

29. The SLAF has been impacted by the Covid-19 pandemic. There has been a reduction in the number of firms claiming legal aid along with a reduction in new case numbers in year. This is a direct result of court closures and the two lockdown periods although legal aid advice and assistance was still in operation. The SLAF reported an outturn of £99 million compared to £130.9 million in 2019/20 (a decrease of 24%). The reduction in legal aid costs is consistent with the impact Covid-19 had on the legal aid system.

Budget processes were appropriate

30. SLAB's budget was not been significantly impacted by Covid-19 as staff have managed to transition to working remotely with an increase in Capital spend noted above to support home working.

31. We observed that senior management and the board continued to receive regular and accurate financial information on the body's financial position over the course of the year.

Financial systems of internal control are operating effectively

32. Our management letter presented to the Audit Committee on 20 September 2021 concluded our findings from the review of systems of internal controls. We concluded that appropriate and effective arrangements were in place and we did not identify any significant weaknesses within our testing of the key controls identified. We did identify some areas where there is scope for improvement and these were included our report.

33. No significant internal control weaknesses were identified during the audit which could affect SLAB's ability to record, process, summarise and report financial and other relevant data to result in a material misstatement in the financial statements.

Internal audit

34. SLAB's internal audit function is carried out by an in-house team. We reviewed the 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 2020/21 financial statements and wider dimensions audit responsibilities:

- Payroll (including pensioners)
- Regulation/ Acceptance of Firms to provide Legal Aid.

35. We noted there was a lack of evidence of a full review of the payroll (and pensioners) conducted by internal audit. As a result we reformed some of the work undertaken by internal audit and found no issues. This is an area where the internal audit team have been working towards improvement and it has been acknowledged by the Head of Internal Audit as an improvement point going forward.

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

36. There are appropriate arrangements for the prevention and detection of fraud, error and irregularities. SLAB is responsible for establishing arrangements for the prevention and detection of fraud, error and irregularities, bribery and corruption. 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.

37. We have reviewed the arrangements in place to maintain standards of conduct including the staff and member's codes of conduct including the refreshed Anti Fraud Policy. There are established procedures for preventing and detecting any breaches of these standards including any instances of corruption.

National Fraud Initiative

38. The National Fraud Initiative (NFI) is a counter-fraud exercise across the UK public sector which aims to prevent and detect fraud. SLAB has completed their work and investigated all 298 potential matches which have all been cleared. There were instances of fraud or errors to report. The results of the NFI exercise were reported to the 20 September 2021 Audit Committee.

3. Financial sustainability

Financial Sustainability looks forward to the medium and long term to consider whether a body is planning effectively to continue to deliver its services

Main judgements

SLAB have responded quickly to the Covid-19 pandemic allowing them to continue to provide services to the legal profession and the public.

SLAB should develop a medium to long term workforce plan, including succession planning of key posts, to support the organisation's strategic objectives in the longer term.

39. SLAB have been able to manage the impact of the Covid-19 pandemic and have reviewed processes and procedures to allow them to continue to deliver services remotely. This included increasing capital spend to support the provision of IT equipment to all staff who are mostly working from home.

The Board's 2021/22 budget has been increased by £500k

40. The Board is funded by Grant in Aid from the Scottish Government. The 2021/22 draft budget was approved in March 2021 with a resource allocation of £13.085 million, this is an increase of £500k. The additional funding will be used to progress 'spend to save' discussions and further develop workforce planning. It is noted that pension costs have increased in 2020/21 as a number of staff have recently retired. In 2021/22 two members of the executive team have left the organisation and we note that recruitment to these posts remains ongoing.

Development of medium to long term workforce plan

41. Workforce costs accounted for 89% of SLAB's 2020/21 spend and it is essential that longer term financial plans are developed and underpinned by robust workforce plans. SLAB consider workforce requirements at the start of each budget period and produce budgets and plans using a zero based budgeting approach and workforce planning forms part of this. We note that there have been delays to SLAB producing a longer term workforce plan.

42. The work of SLAB is contingent on the reform of the Scottish Justice system which remains ongoing. SLAB have been progressing reforms to enable them to respond to changes as they are finalised. We note that SLAB have completed a significant amount of work on redesigning processes to allow them to be in a strong position when the review of the legal aid system has been finalised however SLAB have yet to produce a medium to long term workforce plan. During 2021/22 two Executive Directors and a number of other senior staff retired. This further reinforces the need for SLAB to produce a medium to long

term workforce plan to adequately plan for the future. This should also link to their medium to long term financial plan and objectives.

43. We previously reported that SLAB should progress their long-term financial plans including a detailed workforce plan. We repeat our recommendation that SLAB should develop a medium to long term workforce plan, including succession planning of key posts, to support the organisation's strategic objectives in the longer term.

Recommendation 1

SLAB should develop a medium to long term workforce plan, including succession planning of key posts, to support the organisation's strategic objectives in the longer term.

Legal Aid Fund

44. As noted in paragraph 27 the SLAF is a non-cash limited fund and demand-led. SLAB regularly provide updates on Fund forecasts to both the Scottish Government and the board. This typically provides a review of the funding for the following three years. The full impact of Covid-19 on the legal system remains uncertain, and will have an impact on fund spend.

Legal Aid Review

45. It is noted that an independent review of criminal legal aid was completed in 2018/19 by the Scottish Government. The review focussed on ensuring the long-term sustainability of the criminal legal aid system. The outcome of the review has been progressed including increases in solicitor's fees by 3% as they have been implemented, however the long term impact of the review has yet to be finalised by the Scottish Government. SLAB have progressed planning to ensure that they are able to respond to further outcomes of the review as they are published. Robust workforce planning is required to ensure that SLAB are in a position to respond to any changes as they are finalised (refer [paragraph 41](#)). We will continue monitor the changes and impact of the legal aid review on SLAB.

4. Governance and transparency

The effectiveness of scrutiny and oversight, and transparent reporting of information.

Main judgements

SLAB has appropriate and effective governance arrangements in place and these were operational during Covid-19 with no significant impact on the organisation, decision making or scrutiny.

The governance arrangements and controls operating throughout the Covid-19 pandemic have been appropriate

46. The impact of Covid-19 on SLAB has been set out in the Governance Statement in the 2020/21 annual report and accounts. SLAB continue to operate revised governance arrangements as a result of the pandemic including:

- Committee meetings being held virtually and there was no disruption to the committee timetable
- Staff continue to work from home, where appropriate, in line with Scottish Government guidance
- Key controls have been redesigned to ensure controls remain in place
- Interim payments to solicitors have been paid as required during both the first and second lockdowns.

47. We have concluded that, overall, SLAB has appropriate governance arrangements in place. This is informed by our regular attendance at the Audit Committee meetings, review of board papers and other committees, as appropriate. The meetings and business to be scrutinised was not disrupted by the pandemic.

The performance report was of a good standard

48. 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 SLAB'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.

49. We have previously made recommendations regarding the content of the performance report and compliance with the FReM. In 2020/21 we noted an improvement in the performance report and there were no omissions when compared to the FReM requirements. However there remains scope to improve the transparency of reporting within the performance report including clearly setting out performance against agreed benchmarks / targets with explanations as to any significant variances.

Recommendation 2

The transparency of reporting within the performance report could be further improved including clearly setting out performance against agreed benchmarks / targets with explanations as to any significant variances.

5. Value for money

Using resources effectively and continually improving services

Main judgements

SLAB has an appropriate and effective best value framework in place with an annual assessment reported to both the board and the Audit Committee.

Performance management and monitoring of key performance indicators has continued throughout 2020/21.

SLAB has developed an appropriate Best Value framework

50. [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 characteristics of best value and states that compliance with the duty of best value requires public bodies to take a systematic approach to self-evaluation and continuous improvement.

51. 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 results of the 2020/21 assessment were graded as satisfactory across the following themes: Vision and Strategic Direction, Effective Partnerships, Governance and Accountability, Planning and Resource Alignment, Performance Management, Sustainability and Equalities.

52. SLAB have progressed their equalities reporting which has been included in the Annual Accounts and Report. The information reported indicates that SLAB are committed to reviewing and reporting equalities data. SLAB have also published in October 2020 the latest Equality Outcomes and Mainstreaming Report and various equality impact assessments which are available on their website.

SLAB were largely able to maintain service performance levels despite the pandemic

53. SLAB continued to monitor key performance indicators throughout the year with performance reported to the board on a regular basis. The SLAB Operational Performance Overview Report (SOPOR) reported 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.

54. The SOPOR report on operational performance at 31 March 2021 notes the performance in assessing applications is generally good, in particular with civil and children's cases. As with prior years, there is a more mixed performance in accounts processing and payment with criminal and children's cases.

55. The board agreed changes to the benchmarks, and these will be implemented in 2021/22. This will present a period of transition and this will require to be taken into consideration when comparing performance with prior years.

56. SLAB measure success through the SOPOR, responding to a range of correspondence within relevant timescale, on the payment of goods and services to suppliers, the numbers of justified complaints we receive about their service and carry out survey and feedback work with applicant and their solicitors.

National performance audit reports

57. Audit Scotland carries out a national performance audit programme on behalf of the Accounts Commission and the Auditor General for Scotland. In 2020/21 a number of reports were published which may be of direct interest to the body. These are outlined in [Appendix 3](#).

Appendix 1: Action plan 2020/21

2020/21 recommendations

Issue/risk	Recommendation	Agreed management action/timing
<p>1. Workforce Plan</p> <p>A medium to long term workforce plan has yet to be developed to inform future strategic and financial planning.</p> <p>The retirement of two Executive Directors and the loss of senior staff in year has highlighted the need for SLAB to produce a medium to long term workforce plan.</p> <p>Risk: 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>SLAB should develop a medium to long term workforce plan, including succession planning of key posts, to support the organisation's strategic objectives in the longer term (refer paragraph 41).</p>	<p>Agreed action:</p> <p>During the year, development of a plan for a Workforce Plan has been undertaken, including the identification of tools required for the Workforce planning. These tools will be developed in readiness for the plan during 2022, and work will progress around medium term planning to ensure that SLAB is suitably positioned organisationally to develop a longer term plan in line with outcomes of the legal Aid Review and a new Bill. Succession planning will form part of that planning process.</p> <p>Responsible officer:</p> <p>Director of Corporate Services and Accounts</p> <p>Agreed date:</p> <p>Ongoing during 2022</p>
<p>2. Performance Report – transparency of reporting</p> <p>The performance report has developed over the last few years and meets the requirements of the FReM. However we noted there is scope for further improvements.</p>	<p>The transparency of reporting within the performance report could be further improved including clearly setting out performance against agreed benchmarks / targets with explanations as to any significant variances (refer paragraph 49).</p>	<p>Agreed action:</p> <p>Continued development of the performance report including more infographics and tables will be introduced for the 2021/22 reporting year. We will look to include a SOPOR table within this revised performance Report.</p>

Issue/risk	Recommendation	Agreed management action/timing
<p>Risk: There is a risk that future performance reports do not provide a full analysis of SLAB's performance against its corporate objectives and outcomes and operational targets.</p>		<p>Responsible officer: Director of Corporate Services and Accounts</p> <p>Agreed date: 31 March 2022</p>

Follow-up of prior year recommendations

Issue/risk	2019/20 Recommendation	2020/21 Update Agreed management action/timing
<p>4. 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: 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>Complete / Closed</p> <p>Thistle house was revalued by external valuer in 2020/21 and valuer noted no material uncertainty in the valuation due to Covid-19.</p>
<p>5. 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: 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>In Progress</p> <p>We do not have a report yet but the system is being fully reconciled every month and evidence of this has been provided to Audit Scotland.</p> <p>Payroll access is currently being reviewed; we will look to action any changes the review deems necessary. In the meantime, mitigating controls in payroll continue to operate effectively.</p> <p>Responsible officer: Director of Corporate Services and Accounts</p> <p>Revised date: Reconciliations – March 2022</p>

Issue/risk	2019/20 Recommendation	2020/21 Update Agreed management action/timing
<p>6. 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: There is a risk that staff are unaware of the fraud policy and that fraud is not correctly reported or monitored.</p>	<p>SLAB should implement the updated Fraud Policy, and this should be supported with a staff awareness campaign.</p>	<p>System access - Ongoing</p> <p>Complete</p> <p>Fraud policy was reviewed agreed with Union and circulated to all staff on the 1st March 2021.</p>
<p>7. 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: 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>In Progress</p> <p>With so much uncertainty around the future shape of legal aid, long term financial planning is extremely difficult. However, we have created the tools to develop a formal workforce plan once the legal aid environment becomes more certain.</p> <p>Additionally, as noted in the performance report, SG have increased Administrative funding by £500k per annum as of 2021-22 which has significantly improved our financial sustainability</p> <p>Responsible officer: Director of Corporate Services and Accounts</p> <p>Revised date: Ongoing</p>
<p>8. Ongoing impact of Covid</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>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>In Progress</p> <p>We will continue to review our internal controls as the Covid-19 situation develops and in line with Justice system</p>

Issue/risk	2019/20 Recommendation	2020/21 Update Agreed management action/timing
<p>Risk: There are risks around the operation of key controls within finance and the introduction of changes to accounts within the justice system.</p>		<p>changes and Scottish Government requirements.</p> <p>Responsible officer: Director of Corporate Services and Accounts</p> <p>Revised date: Ongoing</p>
Recommendations raised in 2018/19		
<p>9. 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: There is a risk that future performance reports do not provide a full analysis of SLAB's performance against its corporate objectives and outcomes and operational targets.</p>	<p>2018/19 recommendation:</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>Closed</p> <p>This point has been raised in the 2020/21 action plan (refer point 2) and is closed here.</p> <p>We noted an improvement in the performance report and there were no omissions in 20/21 when compared to the FReM requirements.</p> <p>However there remains scope to improve the transparency of reporting within the performance report including clearly setting out performance against agreed benchmarks / targets with explanations as to any significant variances.</p>
<p>10. 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</p>	<p>2018/19 recommendation:</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>Closed</p> <p>This recommendation has been superseded by our current recommendation regarding workforce plans and the ongoing prior year recommendation regarding longer term strategic planning (refer point 1 and point 7 above).</p>

Issue/risk	2019/20 Recommendation	2020/21 Update Agreed management action/timing
<p>future strategic and financial planning.</p> <p>Risk: 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>11. 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: There is a risk that SLAB does not conduct its business in an open and transparent manner.</p>	<p>2018/19 recommendation:</p> <p>SLAB should ensure that performance information on the website is always kept up to date.</p>	<p>Closed</p> <p>The SLAB website is up to date with corporate plans, strategies, committee minutes and performance information.</p>
<p>12. Scottish Legal Aid Pension Scheme Governance</p> <p>The governance arrangements for the Scottish Legal Aid Pension Scheme, including the 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: 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>2018/19 recommendation:</p> <p>The governance arrangements for the Scottish Legal Aid Pension Scheme should be formally documented and approved by the board.</p>	<p>Closed</p> <p>A paper setting out SLAB's Pension Scheme administration arrangements was presented at the 14 June 2021 Audit Committee prior to being presented to the board for approval.</p> <p>The documents sets out the current administration and associated governance arrangements in relation to the SLAB Pension Scheme(s) and includes setting out the key areas of responsibility.</p>

Appendix 2: Significant audit risks

The table below sets out the audit risks we identified on the 2020/21 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 financial statements and those relating to our wider responsibility under the [Code of Audit Practice 2016](#).

Risks of material misstatement in the financial statements

Audit risk	Assurance procedure	Results and conclusions
<p>1. Risk of material misstatement due to fraud caused by the management override of controls</p> <p>International Auditing Standards require that audits are planned to consider the risk of material misstatement in the financial statements caused by fraud, which is presumed to be a significant risk in any audit. This includes the risk of fraud due to the management override of controls. In addition, this risk includes the potential for management to influence the results in the financial statements through estimates and judgements. In response to Covid-19, to maintain processing levels, there is a possibility that this may have increased the opportunity for management override</p>	<p>Detailed testing of journal entries.</p> <p>Review of accounting estimates.</p> <p>Focused testing of accruals and prepayments.</p> <p>Evaluation of significant transactions that are outside the normal course of business.</p> <p>Completion of cut-off testing to ensure transaction appropriately recorded in the correct year.</p>	<p>No Risk Identified</p> <p>Results: Detailed testing completed on Journals 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 outwith 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 revenue recognition</p> <p>As set out in ISA (UK) 240, there is a presumed risk of</p>	<p>Analytical procedures on income streams.</p> <p>Detailed testing of revenue transactions focusing on the areas of greatest risk.</p>	<p>No Risk Identified</p> <p>Results: Our testing of Income transactions did not identify any issues. We reviewed the Internal Audit report on the work of the</p>

Audit risk	Assurance procedure	Results and conclusions
<p>fraud in the recognition of income. SLAB receives a material amount of 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>	<p>Review of the work of SLAB's Internal Quality Control Unit (ICQU).</p>	<p>ICQU and noted that the conclusion of Satisfactory on the report.</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. 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</p>	<p>Review of the work of SLAB's Compliance Audit and Assisted Persons Investigations Teams.</p> <p>Testing of expenditure transactions focusing on the areas of greatest risk.</p> <p>Review of the work of SLAB's ICQU team.</p>	<p>No Risk Identified</p> <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 remain proactive in their review of registered firms and legal aid accounts.</p> <p>We reviewed the Internal Audit report on the work of the ICQU and noted that the conclusion of Satisfactory on the report</p> <p>Conclusion: There is no evidence of fraud in expenditure.</p>
<p>4. Risk of material misstatement caused by estimates and judgements in the valuation the Legal Aid provision</p> <p>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. The value of the provision is material and as such represents an increased</p>	<p>A review of the process for calculating the provision.</p> <p>Assess the reasonableness and accuracy of the assumptions and data used.</p> <p>A review of all key variables within the model and agreement to supporting documentation.</p> <p>Focused substantive testing of key areas.</p> <p>A review of the disclosures made to support the provision.</p> <p>A review of payments made in 2020/21 compared to the provision to provide</p>	<p>No Risk Identified</p> <p>Results: Detailed testing of the legal aid provision and the supporting disclosures did not identify any issues.</p> <p>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.</p> <p>Conclusion: The value of the legal aid provision at 31 March 2021 is modelled on robust data and a range of well-established assumptions which are evidence based</p>

Audit risk	Assurance procedure	Results and conclusions
risk of misstatement in the financial statements.	assurance over the accuracy of the assumptions.	and subject to regular review for accuracy.
<p>5. Risk of material misstatement caused by estimates and judgements in the valuation of the property valuation and pensions</p> <p>At 31 March 2020, SLAB held property with a net book value of £9.8 million. In addition, the combined pension liability recorded was £142.8 million. Both of these figures contain a significant degree of estimation and subjectivity in their measurement and valuation. The valuation is based on specialist assumptions and estimates, and changes in these can result in material changes to the valuation. SLAB's valuer reported a material uncertainty, caused by Covid-19, in the valuation of land and buildings in 2019/20.</p>	<p>Completion of 'review of the work of an expert' for the professional actuary and the professional valuer.</p> <p>Review and assess the reasonableness of the revaluation performed in year.</p> <p>Review of the estimates and assumptions made in calculating the pension fund liability.</p> <p>Assess SLAB's response to any changes in guidance issued by RICS.</p>	<p>No risk identified</p> <p>Results: The property valuer did not report a material uncertainty in the valuation of land and buildings for 2020/21.</p> <p>We noted no issues from our work on the actuary including assumptions used.</p> <p>Conclusion: From our work we did not find any issues with regards to the valuation of property or pensions.</p>
<p>6. Impact of Covid-19 on the financial statements</p> <p>As a result of Covid-19, interim arrangements were introduced to ensure legal aid payments continued to be made. SLAB is now reviewing the value and the impact that these payments will have in relation to the valuation of legal aid cases at 31 March 2021.</p>	<p>Assess how SLAB has processed and controlled the interim payments made.</p> <p>Assess how this impacts on the financial statements.</p> <p>Review the Annual Report and Accounts and consider how the interim payments have been reported.</p>	<p>No risk identified</p> <p>Results: There were £4.4 million of interim payments made during 2020/21 of which we are unable to confirm the value of interim payments specifically made for Covid-19 arrangements.</p> <p>Conclusion: No issues were found in relation of the valuation of legal aid cases at 31 March 2021.</p>

Appendix 3: Summary of 2020/21 national performance reports

April 2020

[Affordable housing](#)

June 2020

[Highlands and Islands Enterprise: Management of Cairngorm mountain and funicular railway](#)

[Local government in Scotland Overview 2020](#)

July 2020

[The National Fraud Initiative in Scotland 2018/19](#)

January 2021

[Digital progress in local government](#)

[Local government in Scotland: Financial overview 2019/20](#)

February 2021

[NHS in Scotland 2020](#)

[Covid-19: Tracking the implications of Covid-19 on Scotland's public finances](#)

March 2021

[Improving outcomes for young people through school education](#)

Scottish Legal Aid Board

2020/21 Annual Audit Report

Audit Scotland's published material is available for download on the website in a number of formats. For information on our accessibility principles, please visit:

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