



Scottish Solicitors' Guarantee Fund

Annual Report and Financial Statements for the year ended 31 October 2018



Contents

Council's Report	3
Statement of Council's responsibilities	5
Independent Auditor's Report to Council of the Law Society of Scotland	6
Statement of Income and Retained Reserves	9
Balance Sheet	10
Notes to the Financial Statements	11

Council's Report

Overview and Principal Activity

The Scottish Solicitors' Guarantee Fund exists to protect clients who have lost money because of the dishonesty of a solicitor or a member of their staff. The fund is paid for entirely by solicitor firms without the use of taxpayer money from government.

The Fund was created by statute under S.43 of the Solicitors (Scotland) Act 1980.

The Scottish Solicitors Guarantee Fund trades as the Client Protection Fund. The Client Protection sub-committee (CPSC) has delegated authority for all claims and investment decisions. It further delegates minor claims to the Director of Financial Compliance, with these decisions being sample checked by the CPSC regularly.

The Fund reports a surplus for the financial year ended 31 October 2018 of £252,000 (2017 – £114,000).

Disclosure of information to auditor

The Council members who held office at the date of the approval of this Council report confirm that, so far as they each are aware, there is no relevant audit information of which the Fund's auditor is unaware; and each Council member has taken all the steps that they ought to have taken as a member of the Society's Council to make themselves aware of any relevant audit information and to establish that the Fund's auditor is aware of that information.

Review of financial year

Income and Expenditure

Income from solicitor firms remained steady in 2018 at £639,000 (2017: £638,000) due to the decision not to change the subscription rate for 2018.

27 grants to compensate applicants were approved by the sub-committee in the year amounting to £180,000. This was a reduction from the 52 claims approved in 2017 at a cost of £488,000.

Balance Sheet

Reserves increased to £5,976,000 at 31 October 2018 from the previous level of £5,724,000 as a result of the reduction in claims. The Client Protection sub-committee believes it is essential that a level of reserves in excess of £5m is maintained given the unpredictability of the claims environment. This target continues to be met.

Going Concern

The Client Protection sub-committee operates a policy of retaining at least £5m in liquid assets within the Fund to ensure that sufficient funds are available to pay any reasonable claims made against the Fund in the next 12 months.

The Claims authorised by the Client Protection sub-committee in 2018 was £180,000 (2017: £488,000)

It is also open to the Fund to pay significant claims in instalments in accordance with Schedule 3, Part 1, 4(3) of the Solicitors (Scotland) Act 1980, in the event that it is prudent or necessary to spread the cost of a claim to allow additional funds to be raised.

Finally, the annual subscription can be increased and, in extreme circumstances, a levy can be called in from members as required.

Looking ahead

During 2017/2018 a downward trend in terms of new claims continued as existing judicial factories were either concluded or reached an advanced stage. A stop loss insurance policy had been in place to enable the Client Protection Fund to meet any catastrophic accumulation of claims. In 2017/2018 this policy required the Client Protection Fund to meet self-insured claims intimated in the year up to a limit of £4m, after which a further £4m of cover is available. Given the low likelihood of such an occurrence, the Client Protection sub-committee decided not to renew this insurance policy for 2018/19, saving over £100,000. The Fund will therefore be required to meet claims from accumulated reserves.

One claim for £1.25m remains “open” but is likely to be concluded during 2018/2019.

A Judicial Factor was appointed to three firms during 2017/2018. This was a higher volume of appointments compared with the two previous years. Whilst only one of these recent appointments has produced (limited) claims to date, if there is a trend towards a higher volume of Judicial Factory appointment then this is likely to produce higher volumes of claims which supports the policy of retained reserves.

Alison Attack
President, Law Society of Scotland
8 March 2019

Statement of Council's responsibilities

Council of the Law Society of Scotland ('the Society') are responsible for preparing the financial statements of the Scottish Solicitors' Guarantee Fund ('the Fund') in accordance with the constitution of the Society.

The constitution requires Council to prepare financial statements for each financial year. Under the constitution, Council have elected to prepare the financial statements in accordance with applicable law and United Kingdom Accounting Standards (United Kingdom Generally Accepted Accounting Practice). Council will not approve the financial statements unless they are satisfied that they give a true and fair view of the state of affairs of the Fund and of the surplus or deficit of the Fund for that period.

In preparing these financial statements, Council are required to:

- select suitable accounting policies and then apply them consistently;
- make judgements and estimates that are reasonable and prudent;
- state whether applicable accounting standards have been followed, subject to any material departures disclosed and explained in the financial statements; and
- prepare the financial statements on the going concern basis unless it is inappropriate to presume that the Fund will continue in business.

Council are responsible for keeping adequate accounting records that are sufficient to show and explain the Fund's transactions and disclose with reasonable accuracy at any time the financial position of the Fund and enable them to ensure that the financial statements comply with the constitution and UK GAAP. They are also responsible for safeguarding the assets of the Fund and hence for taking reasonable steps for the prevention and detection of fraud and other irregularities.

Financial statements are published on the Fund's website in accordance with legislation in the United Kingdom governing the preparation and dissemination of financial statements, which may vary from legislation in other jurisdictions. The maintenance and integrity of the Fund's website is the responsibility of Council. Council's responsibility also extends to the ongoing integrity of the financial statements contained therein.

Independent Auditor's Report to Council of the Law Society of Scotland

Opinion

We have audited the financial statements of the Scottish Solicitors' Guarantee Fund ("the Fund") for the year ended 31 October 2018 which comprise the Statement of Income and Retained Reserves, the Balance Sheet, and notes to the financial statements, including a summary of significant accounting policies. The financial reporting framework that has been applied in their preparation is applicable law and United Kingdom Accounting Standards, including Financial Reporting Standard 102 *The Financial Reporting Standard applicable in the UK and Republic of Ireland* (United Kingdom Generally Accepted Accounting Practice).

In our opinion, the financial statements:

- give a true and fair view of the state of the Fund's affairs as at 31 October 2018 and of its surplus for the year then ended;
- have been properly prepared in accordance with United Kingdom Generally Accepted Accounting Practice.

Basis for opinion

We conducted our audit in accordance with International Standards on Auditing (UK) (ISAs (UK)) and applicable law. Our responsibilities under those standards are further described in the auditor's responsibilities for the audit of the financial statements section of our report. We are independent of the Fund in accordance with the ethical requirements that are relevant to our audit of the financial statements in the UK, including the FRC's Ethical Standard, and we have fulfilled our other ethical responsibilities in accordance with these requirements. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our opinion.

Conclusions relating to going concern

We have nothing to report in respect of the following matters in relation to which the ISAs (UK) require us to report to you where:

- Council's use of the going concern basis of accounting in the preparation of the financial statements is not appropriate; or
- Council have not disclosed in the financial statements any identified material uncertainties that may cast significant doubt about the Fund's ability to continue to adopt the going concern basis of accounting for a period of at least twelve months from the date when the financial statements are authorised for issue.

Other information

Council are responsible for the other information. The other information comprises the information in the annual report and financial statements other than the financial statements and the auditor's report thereon. Our opinion on the financial statements does not cover the other information and, except to the extent otherwise explicitly stated in our report, we do not express any form of assurance conclusion thereon.

In connection with our audit of the financial statements, our responsibility is to read the other information and, in doing so, consider whether the other information is materially inconsistent with the financial statements or our knowledge obtained in the audit or otherwise appears to be materially misstated. If we identify such material inconsistencies or apparent material misstatements, we are required to determine whether there is a material misstatement in the financial statements or a material misstatement of the other information. If, based on the work we have performed, we conclude that there is a material misstatement of this other information, we are required to report that fact.

We have nothing to report in this regard.

Matters on which we are required to report by exception

We have nothing to report in respect of the following matters in respect of which we have agreed to report if, in our opinion;

- adequate accounting records have not been kept, or returns adequate for our audit have not been received from branches not visited by us; or
- the financial statements are not in agreement with the accounting records and returns; or
- we have not received all the information and explanations we require for our audit.

Responsibilities of Council

As explained more fully in the statement of Council's responsibilities, Council are responsible for the preparation of the financial statements and for being satisfied that they give a true and fair view, and for such internal control as Council determine is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, Council are responsible for assessing the Fund's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting unless Council either intend to liquidate the Fund or to cease operations, or have no realistic alternative but to do so.

Auditor's responsibilities for the audit of the financial statements

Our objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinion. Reasonable assurance is a high level of assurance but is not a guarantee that an audit conducted in accordance with ISAs (UK) will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

A further description of our responsibilities for the audit of the financial statements is located at the Financial Reporting Council's website at:

<https://www.frc.org.uk/auditorsresponsibilities>. This description forms part of our auditor's report.

Use of our report

This report is made solely to Council as a body. Our audit work has been undertaken so that we might state to Council those matters we are required to state to them in an auditor's report and for no other purpose. To the fullest extent permitted by law, we do not accept or assume responsibility to anyone other than the Fund and Council as a body, for our audit work, for this report, or for the opinions we have formed.

BDO LLP, statutory auditor
Edinburgh, UK
Date:

BDO LLP is a limited liability partnership registered in England and Wales (with registered number OC305127).

Statement of Income and Retained Reserves

for the year ended 31 October 2018

	Note	2018 £000	2017 £000
Continuing Operations			
Income			
Subscriptions		639	638
Income from investments and deposits		107	103
Claims paid by judicial factor		-	1
Recovery of grants paid by judicial factor		11	(115)
Total Income		757	627
Expenditure			
Claims met		(180)	(488)
Stop loss insurance		(109)	(107)
Overheads		(140)	(134)
Convener compensation		(4)	(4)
Auditor's remuneration		(4)	(6)
Total Expenditure		(437)	(739)
Operating profit/(loss)		320	(112)
(Loss)/gain on fair value of investments		(109)	290
Profit before tax		211	178
Taxation on profit	2	41	(64)
Profit for the year		252	114
Retained Reserves at 1 November		5,724	5,610
Profit for the year		252	114
Retained Reserves at 31 October		5,976	5,724

The notes on pages 11 to 15 form part of these financial statements

Balance Sheet

as at 31 October 2018

	Note	2018 £000	2017 £000
Non-Current Assets			
Listed Investments	3	3,435	3,345
		<u>3,435</u>	<u>3,345</u>
Current Assets			
Cash and Cash Equivalents		2,619	2,510
Trades and Other Receivables	4	443	470
		<u>3,062</u>	<u>2,980</u>
Current Liabilities			
Trades and Other Payables	5	(466)	(491)
Provision for Corporation Tax		(23)	(32)
Provision for Deferred Taxation	6	(32)	(78)
		<u>(521)</u>	<u>(601)</u>
Net Current Assets		<u>2,541</u>	<u>2,379</u>
Net Assets		<u>5,976</u>	<u>5,724</u>
Reserves:			
Funds		<u>5,976</u>	<u>5,724</u>

Alison Attack
President, Law Society of Scotland

Date:

The notes on pages 11 to 15 form part of these financial statements

Notes to the Financial Statements

for the year ended 31 October 2018

1. General Information

The Scottish Solicitors Guarantee Fund is a statutory requirement under S.43 of the Solicitors (Scotland) Act 1980. It exists to protect clients who have lost money because of the dishonesty of a solicitor or a member of their staff. The principal office is located at:

Atria One
144 Morrison Street
Edinburgh
EH3 3EX

2. Accounting Policies

Basis of preparation

The financial statements are prepared on an accruals basis in accordance with UK GAAP (Generally Accepted Accounting Practice), including Financial Reporting Standard 102, section 1A. The Financial Reporting Standard applicable in the United Kingdom and the Republic of Ireland. The financial statements are prepared in £ sterling and rounded to the nearest £,000.

Going Concern

The Council have considered the level of available reserves and the likely claims position for the next 12 months and concluded the use of the going concern basis of accounting is appropriate. To its knowledge there are no material uncertainties which would prevent the Fund from operating for 12 months from the date of signing these financial statements

Investments

Investments comprise investments in quoted equity instruments which are measured at fair value where this can be measured reliably. Where fair value cannot be measured reliably then the investment is carried at cost less impairment. Changes in fair value are recognised in income and expenditure.

Income recognition

The Fund recognises all categories of income receivable in the period to which they relate. Subscription income received that relates to future periods is held on the balance sheet as fees in advance.

Claims

Every claim application is considered on its individual merits and circumstances by the Client Protection sub-committee and by law, no-one is automatically entitled to a payment of a grant from the Fund. The Client Protection sub-committee will look to assess the claim against basic criteria before being accepted

- He or she has lost money or property.
- The loss was caused by the dishonesty of a solicitor (or their staff) during his or her practice or while a professional trustee of a trust.
- The allegation of dishonesty is supported by the conviction of the solicitor (or their staff), or by a finding of fraud in a civil action, or by other evidence that proves dishonesty.
- The loss is not recoverable from any other source. In some cases, an applicant may have to take civil action, such as insolvency proceedings, against the solicitor to recover all or part of the alleged loss or to quantify the amount of the loss.

Notes to the Financial Statements (ctd.)

for the year ended 31 October 2018

Claims are recognised if the Fund has received and admitted the claim by 31 October 2018 which was subsequently paid out.

Claims of which the Client Protection Fund are aware may arise, but have not yet crystallised, are not provided for within these financial statements. There is no conclusive way to determine the likelihood of the claim being accepted or to accurately assess any value of the claim to be paid as financial restitution may be made by another source. Accordingly, these potential claims fail to meet the criteria for a provision and are regarded as unquantifiable contingent liabilities

The maximum claim payable from the Fund is set at £1.25 million and such a claim may be paid in instalments.

Taxation

The Fund is liable for corporation tax on investment income and chargeable investment capital gains. Full provision is made for corporation tax on assessable income. Deferred tax is provided on the unrealised gain on the revaluation of investments.

Cash and cash equivalents

Cash at bank includes cash and short term highly liquid investments with a short maturity of three months or less from the date of acquisition or opening of the deposit or similar account.

Debtors

Debtors are recognised at the settlement amount due. Prepayments are valued at the amount prepaid.

Creditors and provisions

Creditors and provisions are recognised where the Society has a present obligation resulting from a past event that will probably result in a transfer of funds to a third party, and where the amount due to settle the obligation can be measured or estimated reliably. Creditors and provisions are recognised at their likely settlement amount.

Financial instruments

The Fund only has financial assets and financial liabilities of a kind that qualify as basic financial instruments. Basic financial instruments are initially recognised at transaction value and subsequently measured at their settlement value

Judgements in applying accounting policies and key sources of estimation uncertainty

In the application of the Funds accounting policies, Council is required to make judgements, estimates and assumptions about the carrying amount of assets and liabilities that are not readily apparent from other sources. The estimates and associated assumptions are based on historical experience and other factors that are considered to be relevant. Actual results may differ from these estimates.

In preparing these financial statements, Council have made the judgement that only claims submitted by the year-end and subsequently approved are included within these financial statements as the extent of any potential outstanding claims cannot be measured accurately until the claim is submitted.



Notes to the Financial Statements (ctd.)

for the year ended 31 October 2018

2. Corporation tax

	2018 £000	2017 £000
Current corporation tax charge	5	23
Deferred tax (note 6)	(46)	41
	<u>(41)</u>	<u>64</u>
Reconciliation		
Surplus for the year before tax	<u>211</u>	<u>178</u>
Corporation taxation at 19% (2017-19.42%)	40	34
Income not subject to corporation tax	(137)	(100)
Expenditure not allowable for corporation tax	102	98
Movement in deferred tax	(46)	41
Adjustment in relation to prior years	-	(9)
	<u>(41)</u>	<u>64</u>

3. Listed Investments

	2018 £000	2017 £000
Market value at beginning of the year	3,345	2,673
Additions during year	753	748
Disposal at opening market value	(563)	(331)
Unrealised (loss)/gain	(100)	255
Market value at end of year	<u>3,435</u>	<u>3,345</u>

The historic cost of the investments is £3,161,000 (2017 £2,936,000).

4. Trades and Other Receivables

	2018 £000	2017 £000
Law Society of Scotland	443	361
Prepayments and accrued income	-	109
	<u>443</u>	<u>470</u>

Notes to the Financial Statements (ctd.)

for the year ended 31 October 2018

5. Trades and Other Payables

	2018 £000	2017 £000
Accruals	9	13
Outstanding Claims	5	-
Fees in Advance	452	478
	<u>466</u>	<u>491</u>

6. Deferred Taxation

	2018 £000	2017 £000
Provision brought forward	78	37
(Credit)/charge for unrealised movement on Investments	(46)	41
Provision carried forward	<u>32</u>	<u>78</u>

7. Contingent liabilities

Claims intimated but not paid are subject to investigation and the sum claimed may or may not be admitted on the basis of whether the claim falls within the criteria of the Fund. If a claim is admitted, it may not be for the sum claimed. Many claims are straightforward and can be resolved quickly. However, in more complex cases or where the records left by the former firm are very poor, a longer resolution timescale will be necessary. In the absence of reliable information to the contrary, outstanding claims are recorded at the sum intimated. As such, the total of claims intimated does not necessarily represent claims that will be paid.

The total of claims intimated but not admitted at 31 October 2018 was £2.123 million representing 8 claims made against 7 firms, (2017: £3.983 million, 18 claims, 9 firms). One claim accounts for 59% of the total claims intimated. On 1 November 2018, the total of open claims intimated fell to £1.72 million following the rejection of a large claim. To date those claims have not been accepted as valid claims and are not provided for in these financial statements.

A stop loss insurance policy was in place to enable the Client Protection Fund to meet any catastrophic accumulation of claims. During 2017/2018 the policy required the Client Protection Fund to meet self-insured claims intimated in the year up to a limit of £4m, after which a further £4m of cover is available. During the year the Client Protection sub-committee decided not to renew this insurance policy for future years. The Fund will therefore be required to meet claims from accumulated reserves.



Notes to the Financial Statements (ctd.)

for the year ended 31 October 2018

8. Ultimate Controlling Party

The Scottish Solicitors' Guarantee Fund is ultimately controlled by the Law Society of Scotland. The financial statements of the Fund are included within the consolidated financial statements of the Law Society of Scotland. The address of the Law Society of Scotland is Atria One, 144 Morrison Street, Edinburgh, EH3 8EX.

9. Events after the reporting period

After 31 October 2018 2 further grants were awarded for claims to the sum of £5,296. These sums have been incorporated in the financial statements.

At the Client Protection sub-committee meeting of 6 September 2018, the committee members, having delegated powers from the Law Society of Scotland, decided that, having assessed the need to pay claims from the Client Protection Fund as necessary, the Fund would invest further money with Investec in the creation of a low risk portfolio to provide a better return to the profession than cash. In November 2018 a payment of £1.5m was made to Investec Bank PLC for the creation of the second portfolio.