

Admissions Committee



Peter Matthews

During 2004 the Committee met 12 times. Peter Matthews took over from Mary Macrae as Convener at the end of May. Once again the Committee had a varied workload arising, in the main, from applications under the Admissions Regulations.

A Working Party, which had been convened to consider the system for non-Scottish trained lawyers to requalify as Scottish solicitors, reported to the Admissions Committee and its recommendations regarding the content and structure of a transfer test were approved by Council in March 2004. Amendments to the Admissions Regulations are required before the changes can be implemented. The test will be called the Scottish Transfer Test for Qualified Lawyers ("STTQL"). It will be accessible to any qualified lawyer. Exemptions will be put in place for those who are currently eligible to requalify by means of the Intra UK Transfer Test or the EU Aptitude Test. Solicitors who have gained their qualification outwith the UK and/or EU, in addition to passing the STTQL, will be required to undertake a period of practice, under a training contract, of not less than one year.

In light of various delegated powers having been granted by Council to the Committee in November 2003, a seminar was held early in 2004 to provide guidance to Committee members on Discrimination Law issues.

The Committee continued to encourage contact with schools and a number of events were attended and organised to give pupils the opportunity of finding out how to qualify as lawyers and also about the wide variety of career options available to lawyers. It is hoped that the programme of events will be extended during 2005. The "Scottish Schools Law Project" is continuing to be very well received by the profession and schools. It aims to introduce 11- to -15-year-olds to the legal system and help them understand that laws bring responsibilities as well as rights. There has been very positive feedback from firms which have participated. To date approximately 250 law firms and 320 schools have taken part.

Admission Ceremonies

Three Admission ceremonies were held – two in the Upper Library of the Signet Library and one in the Playfair Library at Edinburgh University. The guest speakers were, on 19th March, Minister for Justice, Cathy Jamieson; on 18th June, Sheriff Lindsay Wood; and on 19th November, Sir Neil McIntosh. During the year a total of 435 new solicitors were admitted – 139 men and 296 women.

Board of Examiners

The Board met twice to confirm the results of the 45 Society professional examinations which were taken during 2004. There were 28 new candidates for the Intra UK Transfer Test and no new candidates for the Aptitude Test for EC Qualified Lawyers.

Traineeships

During 2004 a total of 451 trainees commenced traineeships. The number of Diploma holders registered with the Legal Education Department and still seeking a traineeship on 31st December 2004 was 18 – one more than at the same time last year.

Pre-Diploma Training

Thirteen people commenced pre-Diploma training during the course of the year.

Committee membership

Peter Matthews	(Convener)
David Bone	
Colin Gemmill	
Julie Harris	
Richard Henderson	
Jane MacEachran	
Pauline McGoldrick	
Ruth Martin	
Alistair Watson	
Jan McAlister	(Secretary)

Members of the Board of Examiners

Professor Joseph Thomson	(Convener)
Alan Barr	
Christine Boch	
Charles Davidson	
Professor Christopher Gane	
Donna MacKenzie-Skene	
Professor James Murdoch	
Professor Alan Paterson	
Fiona Raitt	
Professor Andrew Steven	
Raymond Williamson	
Denis Yule	
Jan McAlister	(Secretary)

Civil Procedure Committee



George Way

Convener

For the second successive year the Committee Convener was elected Vice-President, and George Way became Convener at the end of May 2004.

Small Claims / Summary Cause Jurisdiction Limits

In response to a policy paper produced by the Scottish Consumer Council and motions laid before the Scottish Parliament by MSPs, the Committee reaffirmed its previous position that the current jurisdiction limits for small claims and summary causes should be raised together with the privative jurisdiction limit for the Court of Session. The Committee had previously supported proposals by the Scottish Executive that the Small Claims limit be increased from £750 to £1,500; that the summary cause limit and the privative jurisdiction limit be increased from £1,500 to £5,000; and that all personal injury cases be taken out of the small claim procedure whatever their value. When those proposals had been put forward by the Scottish Executive to the Scottish Parliament's Justice 1 Committee they were withdrawn in the light of adverse comments.

The Scottish Consumer Council proposed to increase the small claim limit to £5,000 and abolish the summary cause. The motion by MSPs proposed to increase the small claim limit to £5,000 and the summary cause limit to £15,000, although in a subsequent amendment personal injury cases were to be excluded from such increases.

By the end of the year, the matter was still under review by the Justice Department although the Society had been asked to review its position in relation to the small claim limit.

Class Actions

The Committee considered a proposal from the Scottish Consumer Council and correspondence from MSPs on whether a class action procedure should be available in Scotland. The Committee was not persuaded that such a procedure is appropriate. Questions of funding are fundamental and would need to be resolved. In other jurisdictions, once the class has been recognised by the court, any prospective claimant requires to join it or is locked out of the claim. It therefore restricts freedom of choice. In Scotland the flexibility allowed by the "test case" was felt to be preferable.

Mediation

Mediation continued to be the subject of media coverage from which it is evident that there is a strong political desire for increased use of mediation in resolving civil disputes. The Committee remain of the view that while there is a role for mediation in certain types of dispute, it should remain a voluntary process freely entered into by the parties, and should not be imposed by Rules of Court with sanctions for non-compliance. The Committee noted with interest the decision of the Court of Appeal in England in the case of

Halsey v Milton Keynes General NHS Trust in 2004. The parties in that case were not penalised by way of costs for declining to go to mediation.

Patient Consent Form

Representatives of the Committee had input in conjunction with the BMA and the Scottish Executive Health Department into the new form of consent to be signed by clients for release of their medical records under the Data Protection Act.

Personal Injury Cases – Fees and Protocol

Contrary to the optimistic note expressed in last year's Annual Report, agreement on the wording of a pre-action protocol was not reached in the course of 2004, although towards the end of the year it appeared that some progress could be made towards resolving the issue of fees to be paid by insurers when settling claims.

Civil Justice Review

In the course of the year the Scottish Consumer Council invited the Society to participate in an advisory group, which would hold seminars to obtain views across a range of people and organisations on the need for a civil justice review. The Convener and the Secretary attended a number of advisory group meetings and seminars which will continue into 2005.

Consultation Papers

The Committee responded to consultation papers on Technology in the Courts and on Civil Judicial Statistics.

Committee membership

George Way	(Convener)
Ronald Conway	
Ian Cruickshank	
George Jamieson	
Gordon Keyden	
Kim Leslie	
John McCormick	
Robin Macpherson	
David Sandison	
Malcolm Speirs	
Alfred Tyler	
Catherine White	
Bruce Ritchie	(Secretary)

Client Relations Office



Clive Franks
Committee A



Robert Frazer
Committee B



David McClements
Committee C

Committee A membership	
Clive Franks	(Convener)
Martin Burns	
Peter Cross	
Ian Cruickshank	
Russell Douglas	
James Gordon	
Anne Hastie	
Valerie O'Neil	
Iain Smith	
Gerard Whitten	
Fay Shortt	(Secretary)

Committee D membership	
Ian Angus	(Convener)
William Braes	
Carolann Buchanan	
David Buchanan-Cook	
Margaret Christie	
Alison Harvie	
Norman McIntosh	
Gillian Maclean	
Maurice Miller	
Professor Alan Paterson	
Stella McCraw	(Secretary)

Committee B membership	
Robert Frazer	(Convener)
Chris Fraser	
Alison Henderson	
Pauline McGoldrick	
Jennifer McIntyre	
Peter Matthews	
Francis Redman	
Bruce Rollo	
William Stewart	
Robert Wood	
Susan McBay	(Secretary)

Committee F membership	
Jane MacEachran	(Convener)
Michael Ford	
Ivor Klayman	
Denise Loney	
Om Maini	
Paul Matthews	
Valerie Palmer	
Russel Pugh	
Isabel Walkingshaw	
John Webster	
Ian Ritchie	(Secretary)

Committee C membership	
David McClements	(Convener)
Alan Burgess	
Fiona Clunie	
Olive Douglas	
Alastair Durie	
Grant Knight	
Kim Leslie	
Frank McAuley	
David Newton	
John Smith	
Gillian Martin	(Secretary)

Committee G membership	
James Millar	(Convener)
Robert Forman	
Bryan Johnston	
David King	
Fiona MacDonald	
Robert McIntyre	
Suzanne Lyons	
Marlyn Minto	
Michael Pain	
George Way	
Michael Greenfield	(Secretary)



Ian Angus
Committee D



Jane MacEachran
Committee F



James Millar
Committee G

Committee H membership	
Andrew Glencross	(Convener)
Mike Cowen	
Colin Dunipace	
Elizabeth Dunlop	
Derek Edmonds	
Michael Graham	
Mike Meston	
Scott Miller	
Elizabeth Snaddon	
Geoff Worrell	
Ruth Ross-Davie	(Secretary)

Client Care membership	
Alan Davies	(Convener)
Ian Angus	
Elizabeth Dunlop	
Andrew Glencross	
James Gordon	
Jenny McIntyre	
Robert McIntyre	
Alan Paterson	
Philip Yelland	(Secretary)

Professional Conduct Committee membership	
Martin McAllister	(Convener)
Fiona Alderson	
Alison Attack	
Alistair Christie	
John Clarke	
Steven Gleeson	
John MacKinnon	
Eileen Masterman	
Hugh Raymond	
Ian Stubbs	
Kay Telfer	
Janette Wilson	
Fiona Robb	(Secretary)
Elaine McGlone	(Secretary)

Client Relations Office

Modernising and Improving A Year of Achievement

2004 has been a record-breaking year for the Client Relations Office ("CRO").

In September 2003 the Society commenced the operation of the new complaints system with the publicly stated intention of completing 90% of complaints investigations within nine months. That target was reached in December 2004.

This achievement has been made possible by the hard work of all involved in the CRO – the staff, reporters and Committee members. The profession has also helped to increase the speed of the process by successfully using conciliation to handle complaints and increase client satisfaction as well as improving their response times to the Society.

The successful implementation of the new system was only possible because Council allocated increased resources to the CRO. This ensured that the targets for speeding up complaints handling were met. 2005 will see new objectives for further changes to modernise the system for everyone concerned.

Reaching the Target

In planning to reach the 90% target, the CRO identified a number of stages of the process. The aim of the new scheme, which began on 1st September 2003, was to ensure that each stage of the process was completed as quickly as possible. Initially four stages of the process were identified with a fifth being added in the summer of 2004 because the marked increase in speed of handling had led to unexpected delays at the report allocation stage.

1. The Pre-intimation Stage

This is the first stage of any complaint where there may be an attempted conciliation or where the issues need to be agreed with the complainer before the matter is formally intimated to a solicitor. Over the course of the year the time taken to deal with this stage of the process has reduced.

For the cases passing through this stage in December 2003 the time taken was 100 days. For the cases passing through this stage in December 2004 the time taken was 78 days.

2. Stages 2 & 3 – Written Investigation and Allocation of Report

The new complaints system aims to reduce the investigation time by cutting out unnecessary reminders and focusing on adding value to the investigation. The case managers were encouraged to drive forward individual cases. This has led to faster case handling. In cases passing through this stage in December 2003 the combined time was 113 days. For cases closed in December 2004 it was 72 days.

3. The Report Stage

The guideline period for a reporter to produce a report is 30 days. Some reports can take longer to produce because of the complexity of the case and the volume of paperwork to review. For cases passing through this stage in December 2003 the average time taken by a reporter was 36 days; for cases passing through this stage in December 2004 the average time taken by a reporter was 22 days. Reducing the average report time to below the 30-day guideline period is a tribute to the hard work and commitment of the reporters – solicitors and non-solicitors.

4. The Committee Stage

The final stage of the process takes account of comments from clients and solicitors on the report. The reporter is given the opportunity to produce a supplementary report, where appropriate, and the case is then decided by a Committee. Throughout 2004, Committees have met once a month. The number of Committees was increased from five to seven in July 2004. The average time taken for cases passing through this stage in December 2003 was 76 days; the equivalent time for cases passing through this stage in December 2004 was 65 days.

Aims For 2005

The Client Relations Office objectives for 2005 are:

1. Pre-intimation Stage

To continue to reduce the time taken at the pre-intimation stage and analyse those cases which take longer at this stage so that specific reasons for any delay can be identified and addressed.

2. Investigation Stage

The CRO aims to provide a fast service which delivers to the high standards of the Society. These standards demand fair and thorough written investigations with decisions made as quickly as possible once the necessary information has been gathered.



Andrew Glencross
Committee H



Alan Davies
Client Care



Martin McAllister
Professional Conduct

3. Report Stage

The Society has recruited 60 new reporters over the past year to reduce the pressure on existing reporters and ensure that a reporter can look at a case as soon as it reaches the report stage. The Society now has around 200 reporters – both solicitors and non-solicitors. The recruitment and training of reporters is a continuing process and the staff of the CRO assist with guidance and advice on the complaints process for reporters whenever necessary.

4. Committee Stage

In February 2005 significant changes will be made to the Committee structure which aim to speed the process further, and increase the number of Committee members involved in the decision-making process.

From February the CRO will operate ten Committees of eight members – four solicitors and four non-solicitors. Five of the Committees meet on the first Thursday of the month while five meet on the third Tuesday of the month. This should cut out the delays caused when Committees only met once per month and could speed up the process by two to three weeks in many cases. The changes will also spread the Committee workload which has more than doubled in the past year because of the increased speed of complaints handling and the increase in the number of complaints.

Improvements in 2004 in the Process.

The changes which have led to the greatest improvements over the past year are:

a) Sifting Panel

Introduced in September 2003, the Sifting Panel double-checks the rejection of complaints at the first stage. One solicitor and one non-solicitor Committee member review every case manager's decision not to investigate complaints in whole or part or not to reopen closed files.

The Sifting Panel quickly became an important quality assurance tool in identifying cases where an investigation should proceed. In most cases, however, the Panel has confirmed that the case manager's decision was correct. The Panel has provided valuable information and feedback for the CRO, which is used in the ongoing training of case managers to ensure that cases which should be investigated are investigated. There have been a few changes to the working of the Panel which has now settled into a productive work pattern.

b) Reporters

Reporters are key to the operation of the CRO and complaints handling process. Without reporters who give their time and commitment to looking through often complex and difficult cases the system could not be as effective as it is. The involvement of non-solicitors is vital to the success of the CRO and those individuals and their work should be recognised for the value they bring to the CRO where all too often the perception is of a process involving only solicitors. A successful training event aimed at all non-solicitor reporters was held in November.

The increased number of new reporters has reduced the delay at the report stage. At the same time quality of the reports is reviewed to ensure that the standards of reports are uniformly high and that any training needs are met.

c) Volume of Work

The statistics show that the CRO Committees considered over twice the number of cases in 2004 as in 2003. This increase was the result of the new system speeding up the handling process which included cases working through the old system and also from the increase in the number of complaints being brought to the Society.

Increasing the number of Committees from February 2005 should assist the Committees to consider more cases over the next 12 months. There is an annual increase in the number of complaints brought to the Society. In 2004 that increase was 26%. This is partly due to the increased awareness of the CRO and the Society hopes it also shows increased faith in the CRO. The percentage of complaints upheld annually remains fairly steady so there is no indication that standards in the profession are changing. It is clear that more people are willing to bring a complaint to the Society. The Professional Conduct Committee, which considers reports recommending a finding of misconduct and disciplinary action (such as referral to the Scottish Solicitors' Discipline Tribunal), has also been a successful innovation since September 2003. It has had a busy year dealing with recommendations from both the CRO and the Guarantee Fund.

d) Resourcing

The office bearers and Council allocated significant funding to the CRO and the Society's regulatory functions last year and in the budget for next year. The amount allocated has increased annually as the demands on the office increase. The CRO make's sure that every penny of funding works hard to provide value for money to its members while providing a fast and fair service for the public.

The cost of the regulatory operation in 2005 will be twice the CRO spend in 2002 but the average cost for handling a complaint remains at a reasonable level.

Looking Ahead

2005 is a year where the benefits of the Society's investment in the CRO will continue to show as the new systems settle and further changes to modernise the CRO are introduced.

One of the goals will be to ensure that the 90% within nine months' target set in September 2003 and achieved in December 2004 continues to be met and if possible improved on but the main focus will be in allowing the changes to produce the improvements they promise and to take the time to check the quality of the new system and the product produced.

The constant regulatory review as well as detailed scrutiny of the regulation of solicitors, particularly concerning complaints against solicitors, continues. The changes the reviews have brought, especially delegated powers, have been vital to the improvements to the CRO. The reviews to date have brought endorsements of the Society's regulatory systems from the Scottish Executive and the Justice 1 Committee and the Society agree with both those organisations that more change is needed. The Law Society of Scotland is used and copied as a model of regulation by other jurisdictions across the world, something that could be better recognised in Scotland.

1. Justice 1 Consultation

The first regulatory consultation of 2005 is a consultation which follows the report on the Justice 1 Committee Inquiry into the Regulation of the Legal Profession in Scotland, which reported in 2002. The Society has made many changes since the original report. The consultation will focus on the complaints system and the CRO will be looking for more opportunities for change and for legislation to allow further modernisation of the CRO. The legislative change requested by the Society in June 2004 includes the power for Council to make findings of professional misconduct and unsatisfactory conduct and also the power for Council to suspend a solicitor in the rare case where a solicitor fails or refuses to cooperate with a complaints investigation.

2. Inadequate Professional Service

In December 2004 the Scottish Parliament announced that the inadequate professional service compensation level was to increase from £1,000 to £5,000 with effect from 1st April 2004. The Society will review the current guidance available to reporters and Committees before providing updated guidance which will also be made available to the profession and the public.

3. Leaflets

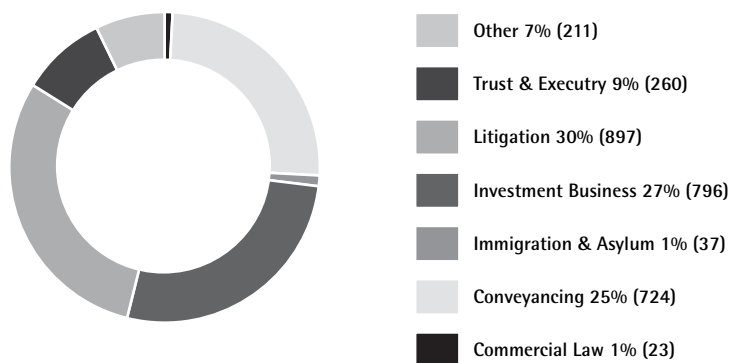
The CRO leaflets are currently being revised and updated. More information will be available on different types of complaint and how to make a complaint. There will be a new leaflet to assist anyone who wants to raise a complaint about a solicitor who is not his solicitor. There will also be more guidance for solicitors on working with dissatisfied clients and what happens if a client complains to the Society.

4. Client Relations Partner Rules

Possibly the most important change in 2005, if approved at the AGM, will be a new set of rules requiring all firms to have a Client Relations Partner and a written internal complaints handling procedure which can be given to a client upon request. Many firms already meet the requirements of the draft rules and are now better at handling complaints within the firm and improving client relations as well as service to the client.

Council has recognised the achievements of the Client Relations Office in the course of the last 12 months and remains committed to continuing the improvement and modernisation of complaints handling. The CRO aims to have another positive and constructive year and to reporting on further improvements to the system as they happen in 2005.

Complaints Investigated in 2004 – Business Category



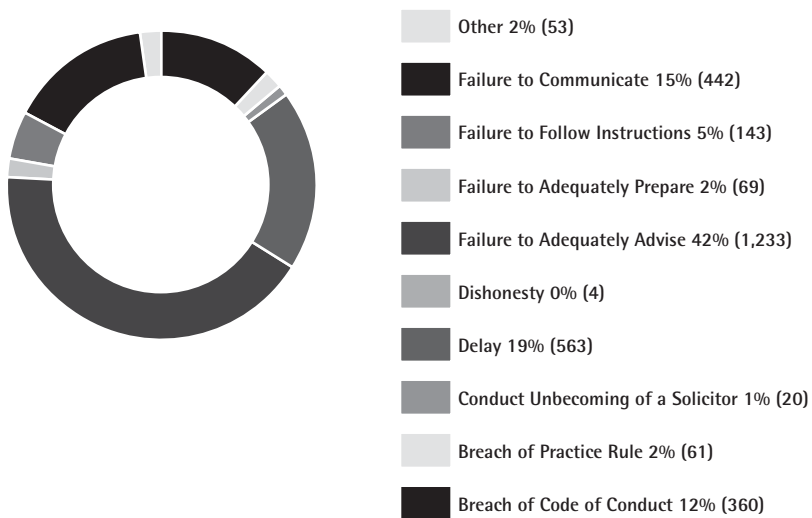
Total number of complaints investigated = 2,948

Complaints Investigated in 2004 – Category Types



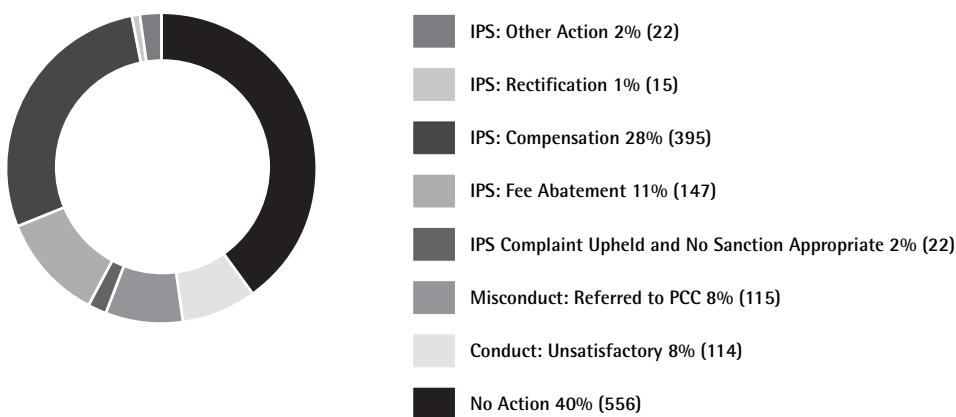
Total number of complaints investigated = 2,948

Complaints Investigated in 2004 – Principal Ground of Complaint



Total number of complaints investigated = 2,948

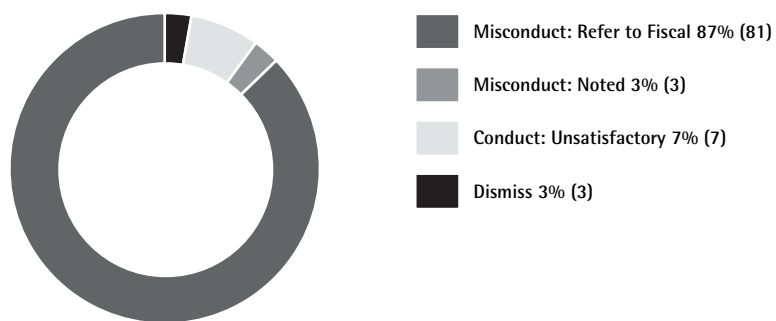
Committee Decisions in 2004



Total compensation solicitors instructed to pay = £176,871

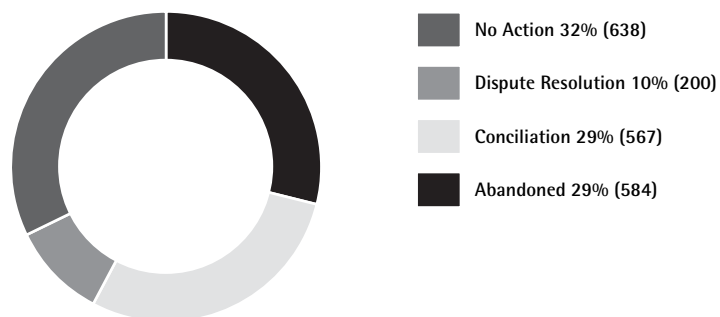
Total number of Committee decision actions = 1,382

Professional Conduct Committee Decisions in 2004



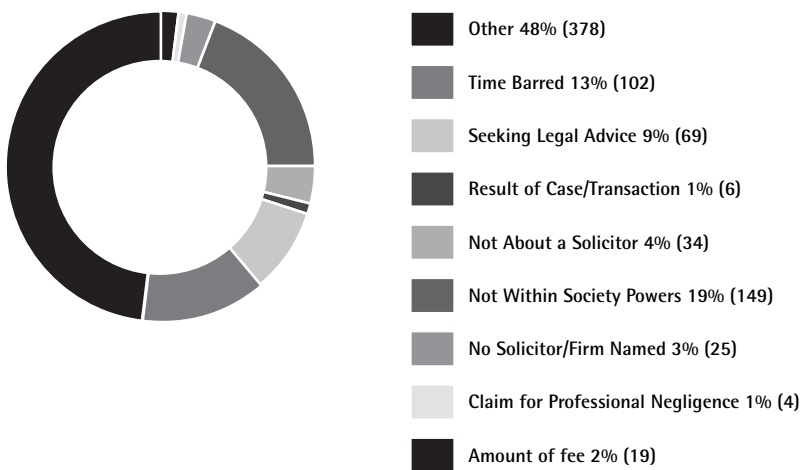
Total number of items dealt with = 94

Administrative Decisions in 2004



Total number of administrative decisions = 1,989

Correspondence Received in 2004 where the Society Refused to Investigate – Reasons



Total number of refusals to investigate = 786

Competence Committee



Morris Anderson

The Committee meets monthly to consider the administration of the CPD regulations, the monitoring procedures, Practice Management Course attendance and other associated matters. Several members of the Committee stood down in 2004 and many thanks are due to the past Convener Alison Atack, and also Duncan Burd, Ruth Martin, Rosalind McInnes and Walter Semple.

In May the Specialisation Committee was merged into the Competence Committee and a review of the Accredited Specialisms scheme is now being undertaken by the Specialisation Working Party. It is hoped the report will be available in late spring 2005. In parallel with this review several new areas of specialisation are being considered for inclusion in the scheme.

Continuing Professional Development

There were no changes to the guidelines during the year. The Committee would emphasise the importance of returning the record cards on time.

Solicitors (Scotland) (Practice Management Course) Practice Rules 2004

In response to a recommendation from the Professional Practice Committee, this year's AGM amended the rules to allow an exemption where a solicitor has been a Principal within 36 months preceding the date on which he becomes a Principal.

The Committee believes that in this fast-changing world solicitors who have not been Principals for three years should attend the course. Requests for waivers are seldom granted if based solely on previous experience.

Standards

At the request of the President the Committee prepared a paper on the adoption of standards by the profession. The paper was put to Council in October. After carefully considering the paper and balancing the arguments for and against the imposition of standards, Council agreed to establish a working party to bring forward proposals on enforceable minimum standards as a mechanism to achieve greater consistency in the handling of complaints both in relation to Inadequate Professional Service and conduct matters.

LawCare

This a registered charity providing confidential help to those suffering from stress and/or depression or those who have alcohol, drug or other dependency concerns. James Ness continues as Chairman and continues to represent the Society. For the avoidance of doubt, James has no access to confidential patient information. LawCare and Update work together to offer Stress Management courses which have proved very popular.

The Scottish Co-ordinator of LawCare is Mark Hepburn. Contact LawCare's free telephone help line on 0800 2796869.

Committee membership

Morris Anderson	(Convener)
Richard Henderson	
Kim Leslie	
Alan MacKay	
Alan Matthew	
Paul Mathews	
Alistair Morris	
Professor Alan Paterson	
George Samson	(Committee Secretary)
Shirley Bannister	(Minute Secretary)
Tricia Sim	(Working Party Secretary - Specialisation)



Stewart Brymer

Conveyancing Committee

The Conveyancing Committee deals with the technical and professional practice issues relevant to conveyancing.

Law Reform

The Committee responded to the consultation on various Bills including the Housing (Scotland) Bill, particularly in relation to the repairing standard and works notices and enabling powers in relation to the provision of information on sale of a house. The Committee was also heavily involved in making representations regarding the Single Survey Pilot and participated in the Steering Group. There were also meetings in that regard. The results of the pilot are awaited in the spring. Problems with the Inland Revenue processing of Stamp Duty Land Tax were also of significant importance to the profession and the Committee jointly participated with the Tax Law Committee in making representations in that regard.

Council of Mortgage Lenders

The Committee continued to meet with the Council of Mortgage Lenders with a view to developing standard practices and guidance in respect of a range of matters. The question of standardisation of Certificates of Title continues to progress.

Meetings with the Keeper

Meetings with the Keeper have been very productive this year, particularly in light of the significant changes in conveyancing law and practice. Various issues including Abolition of the Feudal System, life after the Appointed Day and Stamp Duty Land Tax have occupied us. Automated Registration of Title to Land has progressed apace and is now scheduled for introduction in October 2006 with full operation in 2007. Progress has been made with regard to the Keeper's production targets and in the backlog of older applications. The benefits of the twice-yearly Joint Consultative Committee were such that it was agreed to meet three times per annum in future. The Committee is represented on the Agency's Committee developing Automated Registration of Title and the Agency is also represented on the Conveyancing Committee.

Meetings with Other Agencies

A proposed Standard House Builders' Missive is to be piloted shortly. It is hoped that it will be well received by builders and the profession alike. There were also meetings with the RICS, Scottish Consumer Council, the Coal Authority, Landmark and a variety of other organisations involving a wide range of conveyancing issues.

Conveyancing Roadshows

The programme of conveyancing roadshows begun in 2000 continued in 2004. The roadshows continue to be popular and it is proposed that they be continued in 2005. The Committee benefits substantially from being able to discuss its work directly with members and obtains the benefit of current views on the issues of importance facing the profession.

General

Standard missives have been adopted in a range of areas throughout the country and the Society, through the Committee, is keen to see further developments. Meetings with local agents have taken place in Aberdeen and Edinburgh. The Committee also considered a number of issues of conveyancing practice raised by members of the profession.

Committee membership	
Professor Stewart Brymer	(Convener)
Paul Carnan	
Ian Davies	
Alastair McEwan	
Ross MacKay	
John McNeil	
Paul Matthews	
Bruce Merchant	
Lionel Most	
Professor Roderick Paisley	
Pauline Peddie	
Donald Reid	
Professor Robert Rennie	
Michael Samuel	
Janette Wilson	
Michelle Wilson	
James Ness	(Secretary)

Conveyancing and Executry Practitioners Committee



Janette Wilson

This Committee was established to oversee the regulatory responsibilities of the former Scottish Conveyancing and Executries Services Board ("SCESB") when its duties were transferred to the Society on 15th October 2003. The Committee met for the first time on 13th May 2004.

Conveyancing and Executry Practitioners

The Society now regulates conveyancing practitioners (both independent and those working in an employed capacity) and executry practitioners. There are currently three independent conveyancing practitioners who were previously registered as such with SCESB and are entitled to practice and provide conveyancing services directly to the public. Under the terms of the Public Appointments and Public Bodies etc (Scotland) Act 2003, following the transfer of regulatory responsibilities to the Society, no additional independent conveyancing practitioners can be registered.

As well as the three independent conveyancing practitioners, there are 20 conveyancing practitioners who principally work for firms of Scottish solicitors. It is possible for a conveyancing practitioner to be registered also as an executry practitioner. At the end of 2004, of the 23 conveyancing practitioners, 13 of their number were also qualified and registered as executry practitioners.

Professional Indemnity Insurance and Compensation Fund Regulatory Arrangements for Independent Conveyancing Practitioners

The Society is responsible for putting in place the professional indemnity insurance arrangements for the three independent conveyancing practitioners as well as the compensation fund arrangements. The Society is grateful to its brokers Marsh who put in place these arrangements for the independent conveyancing practitioners for their practice year 2004/2005 commencing on 1st April 2004. Under the arrangements which the Society has with the Scottish Executive for the regulation of independent conveyancing practitioners the global premium for their compensation fund is funded by the Scottish Executive.

The Society carried out its first accounts rules inspections for the three independent conveyancing practitioners this year with the reports from those inspections being considered by the Guarantee Fund and then by this Committee.

The Society seeks to manage the regulatory regime for conveyancing and executry practitioners on a pragmatic and reasonable cost basis.

Committee membership

Janette Wilson	(Convener)
Fergus Brown	
Professor Stewart Brymer	
Yvonne Savage	
Michelle Wilson	
Dennis Young	
David Cullen	(Secretary)



Gerard Brown

Criminal Law Committee

2004 has been an extremely busy year for the Committee. Criminal law and procedure have been under considerable scrutiny from both the Scottish and UK Parliaments, placing increasing demands on the Committee to meet consultation deadlines, scrutinise reforms contained in bills and give evidence to Parliamentary Committees.

Overview

The Committee has spent a great deal of time considering and responding to consultation papers, such as the Home Office proposals on defeating organised crime and counter-terrorism, the Scottish Executive consultations on an Independent Inspectorate for the Crown Office and Procurator Fiscal Service ("COPFS"), the review of the children's hearing system and the Sentencing Commission's paper on the use of bail and remand. In addition, the Committee has been closely involved in the scrutiny of legislation and has given evidence to Parliamentary Committees on the Anti-Social Behaviour (etc) (Scotland) Bill, the Emergency Workers (Scotland) Bill and the Protection of Children and Prevention of Sexual Offences (Scotland) Bill.

Principal Areas of Reform

The Committee's efforts this year have principally focused on the substantial reforms which have been proposed in regard to the practice and procedure of Scots criminal law.

Criminal Procedure (Amendment) Scotland) Act 2004

The Criminal Procedure (Scotland) Act 2004 gives statutory effect to a number of the recommendations made by Lord Bonomy in his report on the review of the practices and procedures of the High Court of Justiciary. The Act is designed to introduce greater certainty into High Court procedure and improve efficiency through earlier preparation of cases and better communication between the prosecution and the defence. Given the impact of this legislation on the profession and all court users, the Committee felt that it was important to comment from a practical perspective and to seek to ensure that the legislation produced would be workable in practice, delivering real improvements for all. Since enactment, the Committee has worked with the Scottish Executive, Scottish Courts Service, COPFS and other organisations in providing multi-agency training to facilitate the effective operation of the reforms in practice.

Victims and Witnesses

The Committee has continued its work in seeking to ensure that victims and witnesses in the criminal justice system are treated with dignity and respect. With phased implementation of the Vulnerable Witnesses (Scotland) Act 2004 commencing in April 2005, training and the drafting of guidance have been to the forefront of the Committee's agenda. The Committee has commented on draft guidance on the use of special measures under the Act and will participate in multi-agency roadshows touring the country in 2005. In addition the Committee is represented on the Victim Steering Group, Victim Statement Steering Group and Vulnerable Witnesses Implementation – Communication and Training Sub-group. The impact of the changes will be monitored in practice and solicitors may be asked to contribute to this process.

Summary Justice Review Committee's Report to Ministers ("the McInnes Report")

The Committee devoted considerable time to debating the impact on the summary criminal justice system of the proposals for reform contained in the McInnes report. After full debate within the Committee and consultation with the profession, a detailed response was submitted to the Scottish Executive. The Committee awaits the outcome of the consultation process and looks forward to working with others in considering further reform of the system.

Europe

With the drive to improve judicial co-operation and develop the concept of mutual recognition at EU level, the European Commission has produced a number of consultation papers for consideration. The Framework Decision on Procedural Safeguards for Defendants in criminal proceedings was particularly important as implementation could result in changes to our law of detention and potentially improve an accused's right of access to a solicitor at that stage. To discuss the impact which these changes could have on Scots law and procedure, the Committee gave evidence to the House of Lords European Union Committee in November 2004. The report of that inquiry will be published in 2005. The Committee has also considered consultation documents from the European Commission on criminal sanctions, the proposal for a European Evidence Warrant and a green paper on mutual recognition of non-custodial pre-trial supervision measures.

The Committee dealt with many interesting and varied issues raised by members of the profession during the year and looks forward to continuing its work with the profession, the public, and the Scottish, UK and European Parliaments in the year ahead.

The Convener expresses his thanks to the members of the Committee, the Secretary, Anne Keenan, and the staff of the law reform section, Libby Boid, Moira Goll, Carol Nightingale and Margaret McGregor for their hard work and diligence over the last year.

Committee membership	
Gerard Brown	(Convener)
Oliver Adair	
Robert Burnett	
Ian Cruickshank	
May Dunsmuir	(for part of year)
Iain Fleming	(for part of year)
Professor Christopher Gane	(for part of year)
Phyllis Hands	
Murray Macara	
Claire McConville	
Raymond McMenamin	(for part of year)
Michael McSherry	
William McVicar	
Michael Meehan	
John Miller	
Eileen Paterson	(for part of year)
Alex Prentice	(for part of year)
Grazia Robertson	
Jacqueline Robeson	
Gerard Sinclair	
Branislav Sudjic	
Anne Keenan	(Secretary)



David Preston

Education and Training Committee

Lawyers of the Future

In June 2004, a consultation paper was issued by the Society directed towards a Foundation Document (entitled "Lawyers of the Future") for the future development of professional legal education in Scotland. The consultation paper was circulated to a wide audience of "stakeholders" in the process of the education and training of solicitors, inviting views not only on the issues specifically raised by the consultation paper, but also more generally by the draft Foundation Document. The consultation period, which was ultimately extended to the end of 2004, had just drawn to a close at the time of writing and one of the first tasks facing the Committee in 2005 will be to determine the way forward.

Diploma in Legal Practice

In February, an accreditation scheme for Diploma providers was introduced. The scheme, which will, ultimately, be applied to all Diploma providers, was used during the course of the year to consider an application made by the Robert Gordon University in Aberdeen to provide the Diploma. In September, Council approved the accreditation of Robert Gordon University with effect from the commencement of the 2005/6 academic year. Robert Gordon University will now be the first new provider of the Diploma since its introduction over 20 years ago.

Last year we reported that a Diploma Project Board had been established to look urgently at the Diploma following the research commissioned that summer into perceptions of the Diploma. It met on several occasions during 2004 to consider current and future content of the Diploma. Its work culminated in a conference on 4th December, attended by 70 participants with varying interests in the Diploma and from a wide geographical area. Reassuringly, the conference agreed that, although some changes to the Diploma are necessary, there is no requirement for radical surgery. Future development of the Diploma was discussed and many ideas emerged which now require to be given further consideration by the Project Board and the Diploma Co-ordinating Committee.

Professional Competence Course

During 2004, DLA were accredited as internal providers of the core PCC modules, while Shepherd & Wedderburn and McGrigors were both accredited to run various electives as internal providers. Edinburgh University received accreditation for electives as an external provider. Following their initial one-year accreditation, Glasgow Bar Association, Maclay Murray & Spens and the universities of Aberdeen and Edinburgh were all successfully reaccredited for a three-year period as external providers, while Shepherd & Wedderburn received three-year reaccreditation as an internal provider.

Training the Trainers

Three seminars were run, in Aberdeen, Glasgow and Edinburgh, aimed at those with responsibility for training within firms. Attendance was voluntary, but did count towards management CPD!

Communication

The successful programme of visits to Diploma students continued with members of the Society's staff and local Council members attending to discuss topical issues with students.

Committee membership

David Preston	(Convener)
Alistair Bonnington	
Michael Graham	
Richard Henderson	
Drew Livingstone	
Suzanne Lyons	
Paul Maharg	
Alan Matthew	
Samara Shah	
Elaine Tyre	

In-House Lawyers Group



Janet Hood

During the course of the year, the Committee commented on a variety of consultation papers. In particular, much time was spent in considering our response to the Review of Legal Services consultation paper produced by Sir David Clementi. Although this paper dealt with the regulation of the legal profession in England and Wales, we felt it important that the views of Scottish lawyers, and in particular those working in-house who now account for some 27% of practitioners, should be taken into account as any decisions taken by Westminster are likely to impact on the profession here. The Committee responded in detail to part F only on behalf of the In-house Lawyers Group ("ILG") as this is the part of the consultation dealing with proposals for different business structures for the profession. This response was in addition to that of the Society. The Chairman was also invited to write an article on the ILG response for the July issue of the Journal.

Guidance Note

The ILG is preparing a guidance note for in-house lawyers to aid and assist its members in their day-to-day duties as solicitors. The Guidance Note will cover ethics, money laundering, conflict of interest, legal privilege, freedom of information, professional indemnity insurance, etc.

Legal Defence Union ("LDU")

The ILG has negotiated a new policy with the LDU which is exclusive to public service lawyers. In addition to the general benefits, this policy offers protection in respect of any employment dispute.

Seminar Programme

In 2004 we held 28 seminars, attracting a total audience of 1,348. Most of the seminars were in the evening. The full day joint conference with the Faculty of Advocates continues to prove popular and the Dean of the Faculty confirmed that this would be a regular event in the calendar. The highly successful AGM and Symposium, with 70 members attending, was held in Dundee. The Lord Advocate gave the keynote address and we were again sponsored by Dundas & Wilson, Shepherd & Wedderburn and Frasia Wright Associates.

Video Conferencing

This continues to be attractive to members outwith the central belt - 676 attendances this year. In the latter part of the year, we were pleased to welcome Stornoway and Motherwell to our list of venues. In total, ten seminars were linked this year.

Communication by E-mail

The long-term aim of the Society is to increase the usage of e-mail as the primary means of communication and as we have e-mail addresses for approximately 85% of our members, the Society chose the ILG to lead the way in this initiative. Thanks to much hard work by the Society's IT team, towards the end of the year we were able to send all our circulars and general information via e-mail.

ECLA

The ECLA Board met in Sofia in April and Brussels in October. At the October Board meeting Colin Anderson stood down as President but remains as Board Member for Scotland. There was no ECLA Conference in 2004

Committee membership

Janet Hood	(Chairman)
Janette Wilson	(Vice-Chairman)
Colin Anderson	
Colin Browning	
Hew Campbell	
Eve Crowe	
John Forsyth	
Richard Henderson	
Ros McInnes	
Annemarie O'Donnell	
Joseph O'Donnell	
Marina Paul	
Kenneth Ritchie	(ex officio)
Lynda Towers	
Lynn Welsh	
Tricia Sim	(Secretary)



Ian Fletcher

Insolvency Solicitors Committee

Reform of Personal Bankruptcy in Scotland

Subsequent to the 2003 Scottish Executive consultation on the reform of personal bankruptcy law in Scotland there followed a further consultation on the draft bill. Proposals include: reducing the bankruptcy period to one year for all bankruptcies; protecting the public and business interests through the introduction of bankruptcy restriction orders and undertakings placed on potentially fraudulent or culpable debtors; encouraging a responsible attitude to debt by continuing to require debtors to contribute towards their bankruptcy debts where possible – important for the interface with the new debt arrangement scheme; reforming the requirements for “apparent insolvency”; reforming restrictions and disqualifications on debtors; introducing increased transparency in and monitoring of protected trust deeds; streamlining the bankruptcy process and reducing court involvement; taking bankruptcy proceedings out of the Court of Session and consolidating them in the sheriff courts.

The Insolvency Solicitors Committee, along with the Banking, Consumer and Diligence Sub-Committees of the Law Reform Committee, submitted a considered response and will be awaiting further developments with interest.

Joint Insolvency Committee (“JIC”)

The Society continues to be represented as a Recognised Professional Body (“RPB”) at the JIC by Rachel Grant. The Committee continues its programme of review of Statements of Insolvency Practice (“SIPs”), standards of best practice which apply across the profession. It is very important for the Society to voice its views on such matters, especially from the Scottish perspective.

Insolvency Training and Examination

Insolvency training for candidates who took the joint insolvency examination was again organised by the Society in association with the Institute of Chartered Accountants of Scotland (“ICAS”). The Society and ICAS will continue to work together in the publication of the specialist insolvency magazine *Impecunias*.

Insolvency Practitioners Regulation

The Convener is Chairman of IPR Services Limited, the umbrella organisation of RPBs, which liaises on a regular basis with the Insolvency Practices Council set up by the Government following the report of the Review Panel on insolvency regulation published in 1999. It was always the intention that the costs of the regulatory framework would fall on the RPBs although the RPBs have been very fortunate in receiving grants from the Barbican Trust to set against the actual costs. As part of the ongoing process of insolvency regulation within the UK, a levy for 2004 of £100 was made in respect of each licensed insolvency practitioner.

Society's Relationship with R3

The Society became associated with R3 in 1994 and during that period the Convener has represented the Society on the Council of R3. The RPBs no longer have representation on the Council of R3. Instead, in the case of Scotland, there is a Scottish constituency for the Council of R3.

It should be noted that R3 at its conception needed the moral and financial support of the RPBs to become fully fledged and properly established as the trade association of the insolvency profession. Such an establishment has now taken place and R3 is developing on its own as an independent body.

Committee membership

Ian Fletcher	(Convener)
David Bennett	
Professor Thomas Burns	
Gillian Carty	
Ian Cuthbertson	
Rachel Grant	
Alistair Hamilton	
Donna McKenzie-Skene	
Roy Roxburgh	
David Sellar, QC	
Stuart Drummond	(Secretary)

Insurance Committee



Alistair Morris

This year has been a particularly busy one principally due to the ongoing inquiry by the Office of Fair Trading ("OFT") into the Master Policy which was highlighted by the Convener at the AGM on 13th May.

OFT Inquiry into the Master Policy

The Society received its first notification from the OFT that it might launch an investigation into the Master Policy in November 2003 when the Society was advised that the OFT had received one complaint on the operation of the Master Policy. Thereafter, on 11th May the Society was formally advised that following a number of complaints received by the OFT on the operation of the Master Policy that the OFT would carry out a formal investigation to determine whether the operation of the Master Policy is caught under the Chapter II Prohibitions of the Competition Act 1998.

A formal notice under section 26 of the 1998 Act was then served on the Society on 25th June. This notice required the Society to provide various documents and answers to specific questions. A second "section 26 notice" was then served on the Society on 24th September. The Society has fully cooperated with the OFT in its formal investigation into the Master Policy. The OFT investigation has consumed a considerable amount of time for the Committee. The Committee has been assisted in its work by the Society's solicitor, James McLean of Burness, who throughout the ongoing investigation has provided legal advice on the terms of the inquiry and the 1998 Act. The inquiry is still ongoing and in June the Society was advised that it could last up to a further two years.

Master Policy Renewal 2004/2005

Negotiations for renewal of the Master Policy for 2004/2005 took place against the background of a continuing high number and value of intimations in the most recently completed insurance year.

The main changes to the Master Policy arrangements were detailed by the Convener at the AGM on 13th May. Many of these changes arose from the completed review of all aspects of the Master Policy and risk management arrangements which the Committee, with the Society's brokers Marsh, undertook over the course of the last two years. The principal changes are as follows:

1. From 1st November 2004 for the first time in the allocation arrangements for the global premium among individual firms, fee income has been introduced as an additional allocation factor. Initially, fee income as a new rating factor will only account for a single digit percentage allocation of the global premium.
2. The ten partner self-insured amount (excess) cap has been raised to a 15-partner cap – this works out at £45,000 for a 15-partner firm. This change was introduced to reflect the changing profile of the profession in terms of the size of firms.
3. To encourage better risk management among those firms with considerably poor claims records, the maximum level of premium loading has been increased from 250% to 275% for a firm which has a loss ratio in excess of 300% and four or more claims over the relevant five-year reference period.
4. A further new risk management measure is that the self-insured amount applicable to repeated time-bar claims will be trebled for third and subsequent intimations in a rolling five-year period.
5. New practices will be required to complete a risk management questionnaire, the objective of which is to encourage good risk management practice. This questionnaire will be rolled out to all firms in the medium term.

Risk Management

The Committee was again very active in promoting the Society's risk management philosophy to the profession. This is evidenced from the new risk management measures which have been introduced from 1st November 2004. In addition, there were monthly articles in the Journal on risk management produced by Marsh.

The annual risk management roadshow series was held during April to June.

Alistair Sim, Charles Sandison and Russell Lang of Marsh and various members of the Committee hosted the risk management roadshow seminars which were held in locations across Scotland. The emphasis was again on participative discussion of risk issues and practical risk management by group discussion based on a series of case studies. The Committee acknowledges the work of the Master Policy Panel Solicitors, Practice Advisory Service members, Insurance Committee members, Alistair Sim, Charles Sandison and Russell Lang from Marsh and other members of the profession who acted as facilitators to the group discussions.

The feedback on the seminars continues to be very positive. The profession appears to be very satisfied with the materials provided at the seminars as well as their format. The seminars are very well attended and this year's structure will be repeated in 2005.

Pursuers' Panel

The work of the Pursuers' Panel continues to be effective in providing assistance to members of the profession and public in handling professional negligence claims against solicitors. A number of meetings were held throughout the year with Panel members to review its operations. The four members of the Panel are: Terry Brennan of Russells Gibson McCaffrey, Glasgow; Tim Edward of Maclay Murray & Spens, Edinburgh; Iain Nicol of Nicol & Co, Livingston; and Stephen Blane of A & W M Urquhart, Edinburgh. An Information Sheet about the Panel is available on the home page of the Society's website.

Master Policy Principles and Cover

Throughout the year the Committee reviewed various aspects of the operation and principles of the Master Policy. The major changes to the Master Policy for 2004/2005 have been highlighted earlier in the report. The operation of the Master Policy is kept under continual review.

The Society is not involved in the handling or resolution of individual claims. The Society is concerned with the Master Policy claims handling philosophy and with the Panel Solicitors' Guidelines. The Committee meetings, as well as those meetings between Society representatives and Marsh ensure that there are numerous opportunities for discussions on the principles underpinning the Master Policy throughout the year.

Premium Instalment Facility

The premium instalment facility continued to be available to firms who wished to pay for their Master Policy premium on this basis. This facility continues to work well for the benefit of the profession. The provider of this facility is Lombard, which is a member of the Royal Bank of Scotland Group. Lombard was appointed following a tender process for a five-year period commencing 1st November 2001.

Committee membership	
Alistair Morris	(Convener)
Roderick Alexander	
Francis McAuley	
Roderick McPherson	
Mary Macrae	
Joseph Platt	
Walter Semple	
Ian Stubbs	
Catherine White	
Douglas Mill	(Chief Executive)
David Cullen	(Secretary)

Investor Protection Committee



Ruthven Gemmell

This year has again been a particularly active one for the Society in the field of investment business regulation.

Incidental Financial Business Regime

The major source of work for the Committee arose from the changeover of the Incidental Investment Business ("IIB") regime to the Incidental Financial Business ("IFB") regime. The change in the regulatory regime was not confined to a change in name!

The new IFB regime was required due to the expansion of the UK's investment business regime to include mortgage and general insurance business. The Committee's two-year negotiations with the Financial Services Authority ("FSA") on the new regime came to fruition on 31st October 2004 when the Solicitors (Scotland) (Incidental Financial Business) Practice Rules 2004 came into force.

The IFB regime incorporates four types of incidental business which are:

- Incidental insurance business
- Incidental investment business
- Incidental long-term care insurance
- Incidental mortgage business.

The new regime has expanded the number of firms who require to be licensed by the Society for some form of IFB work. This is because the expansion of the regime to include general insurance and mortgage products was the most significant change to the regulatory regime since the Financial Services and Markets Act 2000 came into force in 2001.

An extensive education programme on the new IFB regime was carried out by David Cullen who held 15 seminars across Scotland on the new regime. Any Faculty which would like a presentation on the IFB regime should contact him at the Society on davidcullen@lawscot.org.uk

In addition, guidance on the IFB regime was published and, with the Rules, is available on the Society's website. Articles on the new regime were also carried in the Society's Journal and various circulars were sent to all members and firms explaining the IFB regime. At the end of the year there were just in excess of 600 firms licensed for IFB work.

FSA Authorised Professional Firms

There are over 100 firms of Scottish solicitors authorised by the FSA for mainstream investment business. The Society continues to represent these firms in discussions with the FSA on its specific regulatory regime for Scottish solicitors. FSA authorised firms are covered by the Society's Accounts Rules, Guarantee Fund and Master Policy for Professional Indemnity Insurance with respect to their investment business. A significant development during the year was an FSA seminar tailored to these firms hosted at the Society's offices on 21st September. In addition, Ruthven Gemmell, the Convener, chairs the FSA Small Businesses Practitioner Panel and the Financial Services Practitioner Panel and represents among others the legal profession.

Designated Professional Body

The Society has maintained its status as a Designated Professional Body ("DPB") under the Financial Services and Markets Act 2000. The Society continues to work with the FSA to ensure a good understanding of the respective regulatory regimes of each body. It is anticipated that the FSA will undertake an interim risk assessment review of the Society as a DPB next year.

Financial Services Authority

The FSA reduced the number of consultation papers which it published in 2004. The Committee responded to all relevant consultation papers on behalf of the profession. The Committee will continue to work with the FSA over the course of the coming year to ensure that the full implementation of each body's new regulatory regimes proceeds smoothly and as cost efficiently as possible.

Committee membership

Ruthven Gemmell	(Convener)
Hew Campbell	
Frank Doran	
Gordon Graham	
Douglas Kinnear	
Ian Macdonald	
Alan Matthew	
Christian Melville	
Thomas Murray	
David Cullen	(Secretary)



Morag Driscoll

Law Reform Committee

2004 has been another extremely busy year for the Law Reform Committee and its constituent Committees, Sub-Committees and Working Parties.

The pattern which has been set in previous years continued during 2004. The output of the three Parliaments – European, Westminster and Scottish – has increased. As with previous years, the majority of work has come from the Scottish Parliament, but in Westminster a number of measures have had Scottish provisions or effect in Scotland and required Scottish input.

In the Scottish Parliament there were the following Bills in which the Society took an interest:

Charities and Trustee Investment (Scotland); Bill Emergency Workers (Scotland) Bill; Prohibition of Female Genital Mutilation (Scotland) Bill; Protection of Children and Prevention of Sexual Offences (Scotland) Bill; Antisocial Behaviour etc (Scotland) Bill; Criminal Procedure (Amendment) (Scotland) Bill; Tenements (Scotland) Bill; and the Vulnerable Witnesses (Scotland) Bill.

The Westminster Parliament Bills with Scottish provisions which the Society monitored, commented upon or suggested amendments to were:

Asylum and Immigration (Treatment of Claimants, etc) Bill; Civil Contingencies Bill; Civil Partnership Bill; Constitutional Reform Bill; Employment Relations Bill; Energy Bill; Finance Bill; Fireworks (Amendment) Bill; Gender Recognition Bill; Housing Bill; Human Tissue Bill; Mental Capacity Bill; Patents Bill; Pensions Bill; and Scottish Parliament (Constituencies) Bill.

Following the Council of the Law Society of Scotland Act 2003, the system of Committee delegation was consolidated. The system of Sub-Committees established in 2003 continues and consists of the following:

Banking Law; Charity Law; Company Law; Competition Law; Consumer Law; Diligence; Electronic Commerce; Employment Law; Environment Law; Family Law; Human Rights; Immigration and Asylum; Insolvency; Intellectual Property; Licensing Law; Mental Health and Disability; Obligations; Pensions Law; Planning Law; Privacy Law; Rural Affairs; Succession; Tax Law; and Trust Law.

If members are interested in contributing to the work of these Sub-Committees please contact Michael Clancy.

The Sub-Committees which met during the year included:

Charity; Company; Consumer; Diligence; Electronic Commerce; Employment; Environment; Intellectual Property; Licensing; Mental Health and Disability; Obligations; Pensions; Planning; Rural Affairs; Supreme Court Working Party; Tax Law and its constituent Sub-Committees. All of these have done valuable work in identifying much needed reforms and commenting upon various proposals. Although all Committees and Sub-Committees which have met have considered various issues and made a valuable contribution to the work of the Law Reform Committee, some have dealt with an extremely large workload and some of the detail of this is shown below.

Family Law

The Sub-Committee has had a substantial workload this year. The highlights have included dealing with the Civil Partnership Bill, the Gender Recognition Bill and the Scottish Executive consultation: Family Matters, which will provide the basis for the reform of family law in the future.

The Sub-Committee also published the Child Protection and Representation Principles for Children's Lawyers to assist the profession to represent the interests of child clients.

Licensing Law

The Sub-Committee was heavily involved in consideration of the Review of Licensing Law in Scotland proposals and the subsequent report. There will be further input once firm proposals are brought forward. The Sub-Committee also participated in the consultation on the draft Gambling Bill and the proposed legislation currently in the UK Parliament.

Planning Law

The Sub-Committee has been involved in a number of consultations issued by the Scottish Executive including the Modernising of Public Local Inquiries. It held a meeting with experts in the planning field and also with the Scottish Executive. The Sub-Committee will participate fully in the legislative process when a Bill appears.

Supreme Court Working Party

This was a specially convened Working Party which dealt with the Society's response to the Department of Constitutional Affairs consultation "A Supreme Court for the United Kingdom" and also considered the Constitutional Reform Bill. This important Bill establishes the UK Supreme Court which will take on the judicial work of the Appellate Committee of the House of Lords and the Judicial Committee of the Privy Council. The Society gave evidence to the Special Committee of the House of Lords and the Justice 2 Committee of the Scottish Parliament. The Society also prepared a number of amendments during the passage of the Bill in the House of Lords, many of which were accepted by the Government.

Tax Law

In addition to the regular issues of Budget and Finance Bill Observations, once again the dominant topic this year has been Stamp Duty Land Tax. Meetings continue to be held with the Stamp Office and other interested parties in an endeavour to improve the situation with regard to Scottish interests. This matter is causing concern to the profession and the Sub-Committee continues to monitor the position and draw problems to the attention of the Inland Revenue.

EU Issues

Law reform proposals brought forward by the EU continue to gain importance in the Society's work. Increasingly, the EU's programme in the field of Justice and Home Affairs is having an effect on issues such as asylum and immigration, family law, procedural law, criminal law and legal aid. The Society's Brussels Office – which is shared with the Law Society of England and Wales and the Law Society of Northern Ireland – monitors and comments on proposals in the justice area as well as EU policy and legislation in areas such as employment law, intellectual property law, company law, environmental law, tax law, competition law and consumer law. The office also plays an active role in commenting on the increasing number of EU policy initiatives directly affecting the rules regulating the legal profession, such as the draft EU Services Directive and proposals regarding a third Money Laundering Directive.

As part of its work, the office publishes the Brussels Agenda on a monthly basis which gives details of EU policy and legislation changes and is available to all solicitors by e-mail and on the Society's website.

The Society is an active participant in the work of the CCBE (Council of the Bars and Law Societies of the EU). The CCBE is the focal point for representation on all EU issues affecting the practice of the profession and has the recognition of the European Commission and other international institutions.

The Society regularly provides detailed responses to consultation papers from European institutions, Whitehall Departments and the Scottish Executive.

Committee membership

Morag Driscoll	(Convener)
David Bennett	
David Brand	
Gerard Brown	
Niall Campbell	
Professor Eric Clive	
Isobel d'Inverno	
John Loudon	
James McLean	
Christine O'Neill	
Lynda Towers	
Professor Ian Willock	(retired during year)
Michael Clancy	(Secretary)



Mark Thorley

Legal Aid Committee

The Legal Aid Committee had an extremely busy year continuing to deal with the individual matters raised by members of the profession; the continuing operation of the Society's Quality Assurance Scheme for Civil Legal Aid and Advice and Assistance work; the ongoing project for Civil Advice and Assistance reform; discussions on Criminal Legal Aid reform; the Legal Aid Conference; and the publication of the Strategic Review on the Delivery of Legal Aid, Advice and Information on 29th October 2004.

Civil Legal Aid Reform

The Civil Legal Aid reforms which were implemented on 1st October 2003 have continued to bed in and will be monitored in 2005. The key element of the reforms was the implementation of the Society's Quality Assurance Scheme for Civil Legal Aid and Advice and Assistance work by a system of peer review by experienced civil legal aid practitioners. The first peer reviews commenced on 1st July 2004. The Society agreed the detail of the Scheme with the Scottish Legal Aid Board ("SLAB") in a Memorandum of Understanding and amended the Solicitors (Scotland) (Civil Legal Aid and Advice and Assistance) Practice Rules 2003 to bring Children's Legal Aid under the Scheme. The Committee is grateful to the Quality Assurance Committee which has supervised the Scheme over the last year and commends the valuable work carried out by the Society's peer reviewers.

Civil Advice and Assistance Reform

The Society has worked with the Scottish Executive and SLAB to agree a consultation document on Civil Advice and Assistance reform which has been circulated to the profession for responses by 28th January 2005. It is anticipated that the resulting reforms are to be implemented by April 2005 together with a corresponding fees increase. In the interim there was an interim increase in fees of 5% which was implemented for all Civil Advice and Assistance work on and after 28th June 2004.

Criminal Legal Aid Reform

The Vice-Convener, Oliver Adair, continued to hold meetings with members of various Faculties throughout Scotland to discuss Criminal Legal Aid reform in the course of 2004. There was an interim increase in fees on 1st July 2004 of 5%, 5% and 15% for travelling, waiting and advocacy respectively. The Society continues to discuss further reforms to include the introduction of quality assurance for criminal legal aid work which are likely to be implemented in the course of 2005.

Tripartite Consultation Group

The ongoing reforms are supervised by the Tripartite Consultation Group which consists of members of the Scottish Executive, the Society and SLAB.

Legal Aid Conference

The Legal Aid Conference held at Heriot Watt University on 29th and 30th October 2004 was a great success with over 200 delegates attending seminars covering a spectrum of legal aid issues delivered by practitioners, representatives of SLAB and, for the first time, representatives of the Crown Office. A keynote speech was presented by Hugh Henry, MSP, the Deputy Minister for Justice. The Committee's thanks go to all participants. The 2005 Conference will be held, in partnership with SLAB, at the Hilton Thistle Hotel, Glasgow, on 28th and 29th October. It is hoped that the Crown Office will again participate in the 2005 Conference.

Strategic Review on the Delivery of Legal Aid, Advice and Information

The Scottish Executive issued the Strategic Review on the Delivery of Legal Aid, Advice and Information report on 29th October 2004. The Society has considered the report carefully. It has been advised that a consultation document will be issued in early 2005.

Finally, the Committee would like to thank its previous Convener, Ian Smart, who demitted office as Convener of the Committee on 31st October 2004, for all his hard work and efforts over the last three and a half years.

Committee membership

Mark Thorley	(Convener)
Oliver Adair	(Vice-Convener, Criminal)
Steven Gleeson	(Vice-Convener, Civil)
Gerard Brown	
Karen Bruce Lockhart	
Robert Burnett	
Henry Couchlin	(for part of year)
Lynne Di Biasio	
Morag Driscoll	(for part of year)
Elspeth Forrest	
Robert Frazer	
Jennifer Gallagher	(for part of year)
Siobhan Kelly	(for part of year)
Anthony Kelly	(for part of year)
Grant Knight	(for part of year)
Margaret Liddell	(for part of year)
Francis McAuley	(for part of year)
Pauline McGoldrick	(for part of year)
Angus McIntosh	
David Newton	
Grazia Robertson	
Joseph Shields	
Ian Smart	
Gerard Whitten	(for part of year)
Moira Shearer	(Secretary)

Professional Practice Committee



John MacKinnon

Terms of Business Letters

Following the successful introduction in 2003 of Rules requiring written information to be given to private clients in residential conveyancing transactions, the debate on further rules on Terms of Business Letters continued. In June the Committee recommended that the provisions of article 5(e) in the Code of Conduct in relation to Terms of Business Letters should become a Practice Rule for all types of business and that recommendation was accepted by the Society's Council. Draft Practice Rules (entitled Client Communication Rules) have been prepared and will be circulated to members with the papers for the Annual General Meeting in March 2005. The Committee debated whether there should be an exception to the Rules for clients who are children and finally agreed that the exception should apply to children under the age of 12. They also agreed that there should be an exception where there is no practical opportunity for the information to be provided in writing because the entire business is conducted at the first meeting with the client.

Multi-National Practices

In the course of the year the Committee and the Director of Professional Practice were involved along with the Society's solicitors in consultation with the Scottish Executive Justice Department on the drafting and completion of regulations to allow section 60A of the Solicitors (Scotland) Act to be fully implemented. Those regulations came into force in October 2004 and the necessary Practice Rules have been drafted. The first set of Rules to allow lawyers from outside Scotland to seek registration as foreign lawyers were approved by Council and the Lord President and will come into force on 1st February 2005. Three other sets of Practice Rules allowing solicitors to form multi-national practices with foreign lawyers; to determine where the principal place of business of such a multi-national practice will be; and what Practice Rules will apply to both the solicitors and the foreign lawyers in that multi-national practice, will be circulated with the papers for the AGM in March. The Convener recorded his gratitude to the Society's solicitors, Brodies, for their invaluable assistance in these complicated draft Rules.

Other Practice Rules

During the year new Rules entitled Solicitors (Scotland) (Restriction on Association) Practice Rules 2004 were approved and came into force. They update and replace the 1975 Practice Rules in relation to associating in business with, or providing facilities for, solicitors who have been struck off or suspended.

The Rules relating to the Practice Management Course for new partners were also updated by extending the automatic exemption to solicitors who had been a partner in any firm within three years of the assumption as a new partner which would otherwise trigger a requirement to attend the course.

Acting for Insured Defenders

The Committee considered a finding of the Scottish Solicitors' Discipline Tribunal who had held that the only client of the solicitors acting for insured defenders was the insurance company and the files belonged to the insurance company and not to the named defenders. In the particular case the insurance company had gone into liquidation and the defenders had sought the file to allow them to defend the action themselves. The Committee had concerns about the Tribunal's decision and observed that solicitors acting for an insured person have two clients – the defender personally and the insurer.

Code of Conduct – Confidentiality

In the light of the Proceeds of Crime Act 2002 and the Money Laundering Regulations 2004 the Committee recommended to Council that article 4 of the Code of Conduct dealing with confidentiality should be amended. That recommendation was accepted. The relevant new wording is: "Some legislation and, in special circumstances, the Court, may require a solicitor to break the obligation of confidentiality particularly if the client is using the solicitor to further a criminal purpose."

Incorporated Practices

During the year the Committee granted recognition to 15 incorporated practices bringing the total number in Scotland to 40. Half of these are limited liability partnerships ("LLPs") and the other half limited companies. Generally speaking, the limited companies comprise one or two shareholders and directors and the LLPs are substantially larger.

House Purchase and Sales – Gazumping, Gazundering and Closing Dates

In the second half of the year the Committee reviewed the Practice Guideline on Closing Dates and Notes of Interest in the light both of representations from members and of press coverage of what the Committee felt were undesirable practices. In December the Council accepted the Committee's recommendation that a new Practice Guideline on Gazumping, Gazundering and Closing Dates be published. The Committee accepted that it is not possible to exercise control over the market but felt that the integrity of the Scottish system was falling into disrepute. It felt the new Practice Guidelines would restore stability and integrity to the process and help solicitors to discuss matters with their clients.

Seeking a View from Outwith the Profession

In the course of the year and following amendment of the Society's Constitution to remove the requirement that membership of the committee be restricted to members of the Council, the Committee agreed that there is merit in bringing in members from outwith the profession to give a different perspective to the Committee's deliberations, particularly where they impinge on the public such as Practice Guidelines in relation to the house purchase system in Scotland. Following advertisement in the National press the Committee was extremely pleased with the quality of persons who applied to join. A shortlist was drawn up and, after interview, the President and Convener appointed Deep Sagar from Glasgow and Roy Paterson from Dumfries to the Committee in late 2004.

Committee membership	
John MacKinnon	(Convener)
Alan Matthew	(Vice-Convener)
Morris Anderson	
Alison Atack	
Alan Davies	
John Hamilton	
George Jamieson	
David McClements	
Jane MacEachran	
Pauline McGoldrick	
Peter Matthews	
James Millar	
Professor Alan Paterson	
Roy Paterson	
Deep Sagar	
Mark Thorley	
Bruce Ritchie	(Secretary)

Publications Committee



Joseph Platt

Journal

Connect Communications has responsibility for the production of all aspects of the Journal including the generation of advertising income. Connect's contract with the Society as Journal contract publisher runs to 31st October 2006.

Despite difficult trading conditions for the advertising industry, a record surplus for the Journal of £75,000 was achieved this year. This is a tremendous result and all the Journal team at Connect are to be congratulated for their continuing hard work and commitment to the Society.

During the year David Cameron stepped down as Editor of the Journal to be replaced by Peter Nicholson who had acted as Deputy Editor for the past year. The Society was delighted with the appointment of Peter Nicholson, a solicitor with over 20 years' experience in legal publishing. It is appropriate to thank David Cameron as outgoing Editor for the tremendous amount of work he has done over the course of the last five years to transform the Journal into a modern publication serving and reflecting the profession. The Society also expresses its appreciation to Alistair Bonnington, BBC Scotland, for his contribution over the year in his roles as Journal Legal Review Editor and Books Review Editor.

The major initiative undertaken in the year by the Society and Connect was the production of an online version of the Journal – journalonline.co.uk. The Journal online site focuses on news affecting the legal profession in Scotland as well as providing a readily searchable library of Journal articles. Reaction to the new Journal online has been very positive and it is appropriate to record the appreciation of the Society to all those involved in successful launch of this project both internally and at Connect.

The Society looks forward to working with Peter Nicholson in building on the success of David Cameron over the course of the next year.

Scottish Criminal Case Reports and Scottish Civil Law Reports

The electronic versions of both these reports, which were launched in September 2002, continue to attract the support of the profession. The electronic version of the reports is available through a joint venture with LexisNexis Butterworths Scotland under the title Scottish Case Reports Direct which aims to be the premier Scottish online case service, providing an archive of more than 5,000 important and interesting cases.

The hard copy versions of the reports continue to be published through the Society and subscriptions to both reports remain at healthy levels. It is appropriate to record once more the gratitude of the Society to the respective Editors of the reports, Sir Gerald Gordon QC and Sheriff Michael Fletcher for all the care and enthusiasm which they devote to the production of these reports.

Joint Publications

Over the course of the year LexisNexis Butterworths Scotland decided to discontinue the production of joint publications with the Society. LexisNexis Butterworths Scotland remain committed to the production of the Stair Memorial Encyclopaedia in its various forms.

Committee membership

Joseph Platt	(Convener)
Alistair Bonnington	
Gerard Brown	
David Cameron	
Peter Nicholson	
David Cullen	(Secretary)



Scott Miller

Remuneration Committee

Survey of Legal Practices (The Cost of Time Survey)

The number of firms which took part in the Survey in 2004 fell slightly from the previous two years but still represented almost 20% of all practice units in Scotland. A total of 240 firms completed the questionnaire.

The survey was carried out on the same basis as previous years and the report demonstrated that there had, again, been a modest rise in hourly cost rates compared with the previous year. The rise was 4 %, similar to the rise in the Retail Price Index.

Extracts from the report on the survey will be published in the Journal in March and April 2005, and the full survey report will be circulated to participating firms at no cost. Other solicitors who wish a copy of the survey may obtain one from Vivien McGregor at the Society (e-mail: vivienmcgregor@lawscot.org.uk) at a cost of £80.

The questionnaire for 2005 will again be circulated in April and those who take part will be eligible for the prize draw. The Committee is grateful to Alex Quinn & Partners for their continued sponsorship of the prize draw, which was won in 2004 by Alastair MacRae of Falkirk.

CPD

The Council accepted a recommendation from the Committee that the solicitor who completes the Cost of Time questionnaire for the firm will be entitled to up to three hours' management CPD, compared with two hours in previous years.

Value of the Unit

In light of Dr Pollock's report on the Cost of Time survey, the Committee reviewed the value of the unit and recommended an increase from £11.30 to £11.85 with effect from 1st January 2005. This recommendation was accepted by the Council.

The value of the unit remains a recommendation and the Committee stresses that solicitors are free to assess their own charge rate by reference to their own hourly cost rate. For those who do not have management information available to calculate their own cost rate, participating in the Cost of Time survey in 2005 will give each firm an individual report on its own cost rates for different types of solicitor (partner/ associate/assistant) which can be used for this purpose.

Review of the Table of Fees

The purpose of the Table of Fees is to provide guidance to the profession and to auditors to assist them in determining what is a fair and reasonable fee in the particular circumstances of any matter. The Society is aware of concern expressed by the Office of Fair Trading in relation to

fees recommended by professional bodies, and also of views expressed by the European Commission on such fees. The Society is seeking advice on these matters, and it is likely that there will be some developments in the course of 2005.

Compensation Claims – Chapter 10

Following the review of the Table of Fees in 2003, the fees in Chapter 10 were increased by adding an investigation fee to reflect the additional work which now requires to be done in investigating such claims, particularly in the light of the new Personal Injury Rules in the Court of Session. The insurance industry made it clear in early 2004 that in general they would not pay fees in accordance with the revised Chapter 10 unless and until agreement was reached on the terms of a voluntary pre-action protocol. Contrary to the optimism expressed in last year's Annual Report, discussions between the Society and the Insurance Claims Managers Forum did not make significant progress in the course of the year, but at the very end of the year following a change in the make-up of the Claims Managers Forum, there was a recognition that the fees issue required to be addressed before the issue of the protocol. A meeting was scheduled for January 2005, and it is hoped that further progress will be made before the AGM on 18th March.

Lord President's Advisory Committee

As in previous years the Committee made representations to the Lord President's Advisory Committee on solicitors' fees in litigation. That Committee accepted in principle that the increase in hourly cost rates identified in the Cost of Time survey should be reflected in the Judicial Tables of Fees, and it is hoped that that view will be reflected in an appropriate increase in the Judicial Tables in 2005.

Committee membership

Scott Miller	(Convener)
Alison Attack	
Aileen Ball	
James Flett	
Gail Hermiston	
Ian McLeod	
Professor Brian Main	
Stewart Mullan	
John Pollock	
Murray Shaw	
Sydney Smith	
Bruce Ritchie	(Secretary)

Rights of Audience Committee



Douglas Brown

New Convener

Following the elevation of Grant McCulloch to the Shrieval bench, Douglas Brown was appointed Convener of the Committee. Mr Brown in turn was appointed to the Shrieval bench in December 2004, and a new Convener will be appointed in 2005.

New Solicitor Advocates

In 2004 a total of 29 solicitors were granted rights of audience in the higher courts. Fifteen became solicitor advocates in the High Court of Justiciary and 14 in the Court of Session. One High Court solicitor advocate already had the right to appear in the Court of Session. The total number practising in Scotland rose to 179 of whom two have rights of audience in both the High Court and the Court of Session; 105 in the High Court only; and 72 in the Court of Session only. The Committee was gratified at the continued interest among solicitors in seeking rights of audience and was pleased to note that this interest continued with another large number sitting and passing the examinations in November 2004. They will all have the opportunity of proceeding to the training courses in early 2005.

Advocates Depute

The Committee was again pleased to note the appointment of Alex Prentice as an Advocate Depute towards the end of 2004. Mr Prentice is the first solicitor advocate from private practice to be appointed an Advocate Depute.

QC Status

Towards the end of 2004 the Scottish Executive announced a revised procedure for consideration of applications for the rank and dignity of Queen's Counsel, and the Lord President asked those interested to apply by 29th December 2004. It is hoped that the ranks of solicitor advocate QC's will be increased in early 2005.

The late David Williamson QC.

It is only right to record the Committee's sadness at the untimely death of David Williamson QC in January 2004. The Committee was represented among the very large congregation at his funeral service, where a moving tribute was paid by the Right Honourable Lord MacKay of Drumadoon. David's memory will live long among those who knew him.

Committee membership

Douglas Brown	(Convener)
Ian Angus	
Anthony Jones	
Murray Macara	
Frank Maguire	
David Pirrett	
Alex Prentice	
Alayne Swanson	
Mark Thorley	
Bruce Ritchie	(Secretary)