

Annual Report on the Civil Legal Aid Quality Assurance Scheme

31 May 2025

Introduction

Since 2003, the Law Society of Scotland has been responsible for the Quality Assurance of Civil Legal Assistance provided by solicitors. All firms registered to provide Civil Legal Assistance are subject to the peer review process. The statutory basis for the Civil Quality Assurance Scheme ('Scheme') is set out in Rule C3 of the Law Society of Scotland Practice Rules 2011.

The Civil Legal Aid Quality Assurance Sub-Committee has responsibility for the instruction, receipt and consideration of all peer reviews. The detail of the Scheme is set out in a Memorandum of Understanding, between the Scottish Legal Aid Board ('SLAB') and the Society.

The Scheme is based on registration with SLAB, for all firms who wish to grant civil legal aid and advice and assistance. New firms or established firms wishing to join the Civil Register, are required both to register with SLAB and to obtain a compliance certificate from the Quality Assurance Sub-Committee of the Law Society.

Peer reviews are carried out by a number of Reviewers from across Scotland who have been recruited and trained by the Society. There are currently 13 experienced Peer Reviewers and 4 probationary Peer Reviewers. All Reviewers are solicitors who carry out civil legal aid work and are asked to assess in areas of civil law where they have suitable experience. The Reviewers report to the Quality Assurance Sub-Committee with a recommendation as to whether or not the firm should pass or fail the review. This decision is taken by the Quality Assurance Sub-Committee.

This report provides details of the outcomes and findings from the fifth cycle of the Scheme which commenced in January 2024 and is now fully operational. It should be noted there was an overlap with the fourth cycle due to a period of suspension during the pandemic. There are a small number of reviews that remain ongoing from the fourth cycle which are being advanced alongside the new fifth cycle.

The Civil Legal Aid Quality Assurance Sub-Committee

The Civil Legal Aid Quality Assurance Sub-Committee ('Sub-Committee') is a specialist Sub-Committee that manages the Scheme. The Sub-Committee is comprised of ten members. This includes five solicitor members with current or recent experience in practice with undertaking civil legal assistance work for clients and five non-solicitors. The Convener of the Sub-Committee is a solicitor with experience within the previous 24 months of undertaking civil legal assistance work for clients in private practice recommended to the Regulatory Committee by the Nominations Committee. The Memorandum of Understanding between SLAB and the Society sets out the process for selection of new members to the Sub-Committee.

The work of the Sub-Committee is supported by Amy Bell, Quality Assurance Administrator who coordinates the civil peer review scheme and acts as secretary to the Sub-Committee. Professor Alan Paterson OBE, Director of the Centre for Professional Legal Studies at The University of Strathclyde, on whose research the Scots peer review programme is based, attends the Sub-Committee as the professional adviser to the Society and SLAB.

The Sub-Committee consisted of the following members over the fifth cycle of reviews to date:

Name of Member	Membership Position
Jaclyn Robertson	Solicitor Convener
Marie-Louise Fox	Solicitor Vice-Convener (SLAB representative)
Jennifer Laughland	Solicitor
Ian Woodward-Nutt	Solicitor
Claire Kettlewell	Solicitor (SLAB representative)
Hazel Thoms	Non-Solicitor (SLAB representative)
Stuart Duffin	Non-Solicitor
David Crossan	Non-Solicitor
Rob Kernohan	Non-Solicitor
Debbie Carr	Non-Solicitor
Aaliya Seyal	Non-Solicitor (ended April 2024)
Fiona Mundy	Solicitor Convener (ended November 2024)

Peer Reviewers

Peer Reviewers are solicitors who have current or recent (i.e. within the last year) experience in providing civil legal assistance. They are asked to peer review in areas of practice where they have suitable experience, although they need not be a specialist in these areas. Peer Reviewers are not permitted to assess any firm with whom they might be in competition or with whom they have a connection.

Peer Reviewers meet on an annual basis to discuss issues arising from peer review and receive feedback on the statistical outcomes from Professor Paterson. This assists with consistency of marking which is important for the fairness of the process to all firms. Consistency is further assisted by double marking approximately 25% of firms.

Reviewers conducting reviews over the fifth cycle of reviews to date:

**A number of long-term reviewers retired in 2024; recruitment has taken place to help ensure that there are adequate numbers of reviewers.*

Name	Firm
Fiona Carey	Brophy Carey & Co
Lynne Collingham	T C Young Solicitors
Fiona Cook	Cook, Stevenson & Co
Kevin Duffy	Russell Gibson McCaffrey
Gordon Ghee	Nellany & Co
Fraser Latta	Latta & Co Solicitors
Charles McGinley	Gray & Co
Richard Mill	Millard Law
Lucy Millard	Millard Law
Edward Christie	Ross & Connel
Michael Ford	Ross Strachan & Co
Sarah Jack	Drummond Miller
Probationary Reviewers from March 2025:	
Joseph Boyd	Joseph G Boyd & Co Court Lawyers
Anthony Anderson	Rollos LLP
Kasia Prochalska	Shelter Scotland
Alison Heron	Harrison Heron Legal
Reviewers previously conducting reviews in the fifth cycle:	
Tanya Steel	Lindsay Solicitors (ended June 2024)
Jennifer Gallagher	Lindsays Solicitors (ended August 2024)
Morag Macintosh*	MacLeod & MacCallum (ended March 2024)
Pauline Ward	Kee Solicitors (ended January 2024)
Kenneth Bonnington*	Cartys Solicitors (ended Nov 2024)
Morag Fraser*	Fraser Shepherd (ended Sept 2024)
Lynn Herbert*	Lynn Herbert & Co

Peer Review Criteria

Rule C3 of The Law Society of Scotland Practice Rules 2011 requires all practitioners to comply with the guidelines published by the Society in providing civil legal assistance. These guidelines are set out in the form of the Peer Review Criteria. The Society has published a detailed [Peer Review Manual](#) to assist solicitors with the Scheme.

All criteria are applied by the reviewer where relevant to the file being reviewed and the file is scored against each of the criteria according to the following marking scale:

Mark	Meaning
1	Below requirements
2	Meets requirements
3	Exceeds requirements
C	Cannot Assess / Not Enough Information
N/A	Not Applicable

The Current Peer Review Criteria are as follows:¹

Initial meeting(s)

1. How effective were the solicitor's initial fact and information gathering skills, including the identification of any additional information required and the taking of steps necessary to obtain it?
2. Was the client given accurate and appropriate advice regarding
 - a) the potential case, including whether it is stateable;
 - b) the client's eligibility for advice and assistance, especially if the client is not admitted, and whether the advice and assistance Mandate (Declaration) is properly signed and dated by both the solicitor and client; and
 - c) legal aid more generally, including the application of regulation 18 and advice and assistance, including possible clawback and the impact of legal aid on expenses?
3. Is there evidence on file or in a letter to the client of:
 - a) An appropriate terms of engagement letter, where applicable;

¹ Further details as to the Criteria and how they are interpreted can be found in the [Peer Review Manual](#).

- b) a note of agreed actions;
- c) a request to the client for further information to be obtained from the client, where required; and
- d) an assessment as to whether any urgent steps were required/appropriate?

Continuing Work

4. Did the solicitor take appropriate steps to carry out further investigation to progress matters for the client within a reasonable timescale?

5. Did the solicitor communicate appropriately with others, and where appropriate, pursue settlement or agreement on relevant issues?

6. Did the solicitor give appropriate advice to the client, where relevant, on alternative options, such as litigation and mediation?

7. Has the solicitor

- a) identified the need for appropriate experts, other reports or counsel
- b) applied for sanction / increase(s) in authorised expenditure in accordance with the guidelines, and if granted, instructed / obtained the appropriate experts / Counsel / reports?

8. Is there evidence of adequate preparation for each diet, debate or proof, to include (as appropriate) the list of witnesses, productions and list of authorities as appropriate to the facts of the case?

Throughout the case

9. a) After the initial meeting(s), did the solicitor make use of, and provide accurate and appropriate advice to the client on, legal aid and advice and assistance, and is the legal aid Mandate (Declaration) properly signed and dated by both the solicitor and the client, all in accordance with the relevant guidelines;

b) After the initial meeting(s), did the solicitor give accurate and appropriate legal advice to the client?

10. Did the solicitor take steps identified/agreed with the client, within a reasonable timescale given the circumstances of the case?

11. Did the solicitor keep the client informed of progress / advised as to next steps / further procedure and provide accurate and appropriate advice, including following the receipt of substantive correspondence (including offers / proposals from the opponent)?

12. Where an offer/proposal is made, is there evidence of accurate and appropriate advice having been given to the client on the terms of the offer/proposal, its reasonableness and the consequences for the client of acceptance/rejection, including the potential impact of expenses/clawback?

Conclusion of the case

13. a) Has the solicitor taken appropriate steps to close the file and communicate that to the client?

b) Where judgment joint minute or extra-judicial terms of settlement are issued, has the solicitor advised the client as to the judgment, joint minute or extra-judicial terms of settlement are including advice on expenses, property recovered and preserved, diligence on decree, prospects of appeal?

14. Has the account been submitted to SLAB in accordance with guidelines and necessary and appropriate steps been taken in relation to recovery of expenses / handling of property recovered and preserved?

15. Has the solicitor taken all reasonable steps to address any issues relating to age, disability, gender, race, religion or belief and sexual orientation which arose in the course of the case?

A mark will be given for the file as a whole, with 1 indicating very poor performance up to 5 being excellent performance. Each practitioner will then receive an overall mark based on the individual file marks achieved.

Sub-Committee Decisions

Reviewers prepare a report for the Sub-Committee outlining the recommended mark for each file reviewed and an overall mark is also given to each practitioner. The report includes comments on areas of good practice and improvement. The Sub-Committee then makes their decision based on the information provided by the reviewers. The Sub-Committee may pass a firm with one of two grades: 'good pass' or 'pass'.

Commonly, the Sub-Committee may continue a review for comment on a particular issue outlined in a report before passing a firm or coming to a decision of whether a further review should be instructed. If the Sub-Committee concludes that a firm should fail its routine review, the Sub-Committee may decide to either schedule an immediate extended review for serious breaches or a deferred extended review which allows for a period of approximately six to nine months for the firm to rectify issues before a further review is scheduled. A special review can be instructed where the Sub-Committee have been alerted to a particular concern in the firm's civil legal assistance procedures. A final review is instructed where the Sub-Committee considers the outcome of a further review (immediate or deferred extended) unsatisfactory.

Statistics from the Fifth Cycle (May 2024-May 2025)

The following statistics have been gathered from the Sub-Committee's decisions for the fifth cycle:

Sub-Committee Concluded Decisions	No. May 2025	No. May 2024
Passes	51	7
Matters continued for comments from firm	14	1
Extended reviews instructed	0	0
Deferred extended reviews instructed	1	0
Special reviews instructed	0	0
Final reviews instructed	0	0

**Note: as of 31 May 2025, there are 450 firms on the Civil Register.*

Areas of Good Practice in the Fifth Cycle

For each file marked, Peer Reviewers complete a corresponding case report, with data recorded by the administrator against each individual marking criterion.

The data collected from case reports highlights the following review criteria in which solicitors are excelling:

- Appropriate steps taken to carry out further investigation to progress matters for the client within a reasonable timescale – 144 **(14%)** files received an above average score.
- Appropriate communication with others – 145 **(15%)** files received an above average score.
- Accurate and appropriate legal advice provided – 127 **(13%)** files received an above average score.
- Client kept informed – 147 **(15%)** files received an above average score.

*Statistics based on a total of 994 files

Areas for Improvement in the Fifth Cycle

The data collected from the Peer Reviewers' case reports highlights the following areas, within the review criteria, that require improvement:

1. Fully completed and signed legal aid/advice and assistance declaration – 140 files (14%) received a fail mark or a cannot assess / not enough information mark.

Fully executed declarations are evidence of valid applications and grants of civil advice and assistance and civil ABWOR legal aid. It provides assurance that the applicant understands the existence of, and has accepted, certain terms and conditions. It is important that the applicant is also aware of the consequences if they breach those terms and conditions and their signature captures acceptance of that.

For the purposes of quality assurance, individual files will fail the declaration criteria if there is:

- a blank, signed declaration.
- a completed, unsigned declaration by both applicant and solicitor.

During the pandemic there were changes to the position on obtaining a client's signature. Peer Reviewers have specific marking guidance for files opened during this period. The way in which solicitors consult with clients has changed since lockdown, SLAB provided updated guidance around declarations for remote consultations. Since August 2023, with all formal restrictions removed, the position has been that where clients are present and able, a signature is required.

SLAB's full guidance regarding legal aid mandates can be found on the [Scottish Legal Aid Board website](#).

2. Evidence of appropriate terms of engagement letters on files – 89 (9%) files received a fail mark or a cannot assess / not enough information mark.

The most common deficiencies identified by Reviewers in relation to terms of engagement letters are:

- No evidence of the TOE letter being sent/ kept on file.
- Lack of information provided to a client regarding the process for making complaints to the Scottish Legal Complaints Commission (SLCC) - most often time limits and specific contact details.

The Sub-Committee will highlight any deficiencies in the firm's TOE letter or indicate potential issues with their processes. This is in line with the Sub-Committee's key objective of continuous improvement as it allows the firm to assess their overall procedures in relation to Rule B4.

The Law Society of Scotland's guidance on Rule B4 is set out on the [Rules and Guidance section of the website](#).

Overall File Marks in the Fifth Cycle

From the Reviewers' reports, the following statistics are found for the overall marking of practitioners.

Overall Score of File	No.	% of Overall marks
1	27	3%
2	69	7%
3 (pass mark)	656	66%
3.5	30	3%
4	203	20%
5	9	0.9%

*Statistics based on a total of 994 files

It should be noted that although the typical overall marking of files is 1-5, Reviewers award a 2.5 mark to show the marginal failing of a file and award a 3.5 mark to show a slightly above average passing of a file.

The statistics show that the great majority of files pass review with an average score of 3. It is positive to note that approximately 25% of files are receiving an above average mark.

Fourth Cycle

The fourth cycle ran from 2017-2024. The scheme was suspended for a period during the pandemic which resulted in a backlog of reviews. A small number of reviews are ongoing as they have been continued for further review. Such reviews have been organised throughout the year however, the below remain outstanding.

Type of Review	Number outstanding	Additional information
Immediate extended	1	<ul style="list-style-type: none"> • Occurring 17th & 18th June 2025
Deferred extended	3	<ul style="list-style-type: none"> • Firms are given six months to prepare for extended review, two are still within this period but should be set up in coming months. • One to occur ASAP.
Final Review	2	<ul style="list-style-type: none"> • One occurring 31st July 2025.

Statistics from Cycles One to Five

Sub-Committee Decisions	1st Cycle (2005-2007)	2nd Cycle (2008-2010)	3rd Cycle (2011-2017)	4th Cycle (2017-2024)	5th Cycle (2024-2025)
Continued for comments	94 (14%)	188 (31%)	303 (45%)	151 (29%)	12 (24%)
Extended/Deferred Extended Reviews	42 (6%)	37 (6%)	59 (9%)	59 (11%)	1 (2%)
Special Reviews	11 (2%)	3 (0.5%)	3 (0.5%)	3 (0.5%)	0
Final Reviews	18 (3%)	10 (2%)	14 (2%)	9 (2%)	0

*Please note it is still the early years of the fifth cycle and percentages have been calculated based on the 51 completed reviews (May 2025).

The statistics indicate that from the first to the third cycle, there was an increase in the number of firms requested to provide comment on specific issues. However, this number decreased by 16% in the fourth cycle, suggesting that more firms are passing their reviews with fewer queries identified by the Reviewers or the Sub-Committee.

There is an increase in the number of firms that progressed to an extended or deferred extended review between the first and third cycle. The purpose of the Scheme is continued improvement rather than exclusion. Therefore, if issues are identified by Reviewers in a firm's routine review, there is an opportunity to rectify such issues in a further review. The Sub-Committee's usual practice is to give firms the opportunity to provide comment before an extended or deferred extended review is initiated.

The Sub-Committee works to maintain and improve the quality of service and legal work provided by practitioners. Where issues arise but do not account to a failure of the review an explanation and confirmation from firms is usually requested before they will update the firm's compliance certificate.

Throughout all cycles there is a minority of firms that progress to special and final reviews. In such cases the Sub-Committee offer additional support and training. SLAB will provide specific training based on issues highlighted in a firm's review. This can assist firms with a targeted approach to improve understanding and compliance with SLAB procedures.

Good Practice when Preparing Files for Review

When a firm is selected for a routine review a list of files is sent to the Compliance Manager of the firm. Firms are reminded that Reviewers can only assess each file on the basis of the information contained on the file. Therefore, the following guidelines are provided to aid firms in preparing their files for review to avoid negative comments/markings:

- If there are multiple files for the same matter, provide all of these.
- Ensure a copy of all standard letters sent to clients are placed on the file.
- Provide copies of all legal aid online applications, correspondence and decisions.
- Ensure file notes are legible if handwritten and provide evidence that the criteria have been met.
- There is no obligation on firms to keep a copy of the account on a file, however the presence of a copy of the account can be of assistance to the review in evidencing that certain criteria have been fulfilled.
- Ensure fully complete and signed legal aid declarations are placed on each file. Incomplete or defective declarations are not only costly to the firm but are a significant ground for failing files. The Board's (SLAB's) most recent guidance on declaration forms should be adhered to.
- If there are both advice and assistance and legal aid files for the same matter, provide both for review.
- Chronologically ordered files are preferred as they assist Reviewers in navigating the file, which impacts their assessment.
- If files are not available for review, alert the Administrator promptly to obtain replacement file details, incomplete sets of files should not be sent without consulting the Administrator.

Duration of Reviewing Files

Peer Reviewers are given 21 days from the day they receive their allocated files to complete their review. If Reviewers require more time, this is communicated and discussed with the Administrator.

Probationary Peer Reviewers

In March 2025 four new Peer Reviewers completed training, they are now completing double-marked reviews with the other marker being an experienced Peer Reviewer. In six months, the Sub-Committee will assess the number of files reviewed by the probationary Reviewers.

Process for Civil Registration

New firms, or firms wishing to commence providing civil legal assistance, are required to both register with SLAB and obtain a compliance certificate from the Society.

In order to register with SLAB, the firm must provide details of how it intends to adhere to the Society's Ten Administrative Requirements for Civil Registration. SLAB provides details of these ten requirements, along with an example response.

Once this information has been received and deemed satisfactory by SLAB's Compliance Team, they contact the Society's Administrator, who will in turn contact the firm with regard to their application and ask for an application form to be completed.

The completed application, together with information from previous peer reviews of the practitioners in the firm is provided via email to a panel of the Sub-Committee to consider whether the firm would comply with rule C3 of the Law Society of Scotland Practice Rules 2011 and relative guidance to provide civil legal assistance. The panel is based on the membership of the Sub-Committee: one solicitor member, one member with association with SLAB and one lay member.

In February 2025 the panel met to form criteria to assist in considering new registrations, the aim was to collate all information to create a framework and improve consistency in the decision-making process. This was then considered and approved by the full Sub-Committee.

Process

The Sub-Committee considered and agreed on the options available to them when considering a registration request:

Note all new firms on the register are subject to an early review (within 6 months).

Options

1. Approve registration (all newly registered firms will be subject to early review).
2. Approve registration with an undertaking to complete SLAB training urgently/ within 3 months, followed up by the Administrator.
3. Approve subject to the solicitor completing training prior to registration (the firm would not be added to the civil register until completed training has been confirmed by SLAB).
4. Reject registration.

Criteria for training:

*Option 2: Complete training **after** registration*

- *Previous legal aid experience is within the previous 3 years.*
- *Legal aid experience is minimal in terms of volume.*

*Option 3: Solicitor should complete training **before** registration if:*

- *No previous legal aid experience*
- *Legal aid experience is more than 3 years ago or prior to a substantial change in the operation of civil legal assistance.*
- *Going to be doing cases under legal aid which they have no prior experience of and which have legal aid implications e.g. clawback or AWI.*
- *Managing solicitor has little or no legal aid experience and registering solicitor has no or little recent experience of legal aid.*

The panel's recommendation is communicated by email to the full Sub-Committee for approval along with the firm's application. If the full Sub-Committee approves the recommendation, the Administrator, depending on the recommendation, will issue the firm with their compliance certificate and inform SLAB that the firm can be added to the Civil Register.

As seen above registration may be approved subject to additional training from SLAB.

Until this process is complete, and the firm has received their compliance certificate, no civil legal assistance work can be carried out within a firm. Applications for civil legal assistance will not be accepted by SLAB, and no payments will be made for any work carried out prior to registration.

The Administrator and Sub-Committee recognise the urgency of these applications and strive to process these requests efficiently and promptly.

For any further information on this report please contact amybell@lawscot.org.uk.