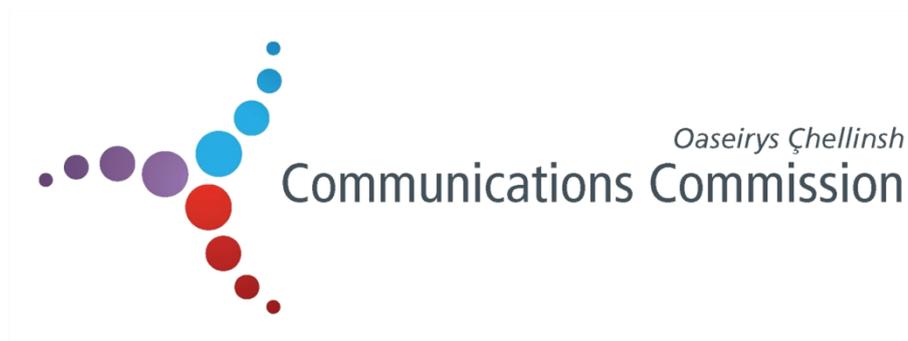


# **Isle of Man Communications Commission**

## **Annual Report 2016/17**

**01 April 2016 – 31 March 2017**



## FOREWORD BY THE CHAIRMAN



I am pleased to be able to introduce the first annual report for the Communications Commission. We have developed this report in the spirit of openness and transparency and we hope that it proves useful to licence holders and stakeholders alike.

Telecommunications is an increasingly important part of our everyday lives for consumers and businesses around the world, and the Isle of Man is no different. This is why we were pleased to see that telecommunications featured so highly in the Programme for Government 2016 – 2021. We are committed to help achieve these goals.

The Communications Commission plays an important role in facilitating and regulating telecommunications and the aim of this Annual Report is to highlight the work we have undertaken this past year.

The Commission is also playing an active part of the key work planned in the Programme for Government, considering our infrastructure to support new technologies, the quality of our broadband and the long term sustainability of technology on Island.

Last year we worked with DED to commission a report on the technological landscape of the Island, looking at connectivity for businesses and planning for the future, including 5G and the Internet of Things.

That report has led to further work being commissioned specifically to consider the options for fibre on the Island. We expect this report to be finished this summer.

We also regulate 3 local radio broadcasters, each of which plays an important part in keeping consumers up to date, informed and entertained.

Hon W M Marlarkey MHK  
Chairman

## INTRODUCTION BY THE DIRECTOR



2016/17 was a busy and exciting year for the Commission. Whilst the full list of our achievements during the year is contained further down within this report, I will comment on some of the highlights first.

We gained a new Chairman, Hon W M Malarkey, who Chaired his first meeting in October 2016. We welcome the Chairman and thank him for his commitment and support during the part of the year that he was with us for. We also said goodbye to two of our long standing Members, The Speaker, the Hon Juan Watterson MHK and Ms Kathy Harrison.

Both made invaluable contributions to the work of the Commission during their time on the Board. Mr Nigel Cordwell, Mr Maurice Mawdsley and Mr Robert Frize continue their service. We also gained two new Members, Mr J P Donnio and Mr Brian Parkin. Between them, our Members bring a wealth of experience gained through building longstanding careers within the telecommunications, satellite, legal, financial services and ICT industries. We also gained a new member of staff in July, to fill the vacant position of Regulatory Manager, which has helped us manage our ever increasing workload.

Manx Telecom has committed considerable resource to meeting its Significant Market Power obligation to produce separated accounts and we received the first set at the end of December 2016. Work now continues to develop and analyse these accounts. We are already seeing a positive impact from their obligation for cost-orientation and this has led to reductions in VDSL broadband and leased line pricing.

Sure was granted Code Powers, which enables it to build its own fixed network, and its licence was subsequently amended. We see this as positive for the industry as it increases competition.

The satellite filing industry was opened up to allow a second company to file through the Isle of Man. We also licence Earth Stations, the first licence being awarded to SES Satellite Leasing Limited in January 2016.

All of these outcomes serve to increase competitiveness and success of the industries we regulate. There is significant overlap between the Isle of Man, the UK and EU regulation in telecommunications and broadcasting in certain areas. Although, at the time of writing, there is no clear information on the implications of Brexit on the scope of the Commission's work, we will monitor and react to developments as they arise.

I hope that this report provides an interesting and useful read.

Dr Carmel McLaughlin  
Director

## ABOUT THE COMMISSION

### Board Members

The Communications Commission is a Statutory Board comprising six members. As enshrined in legislation, the Chairman of the Commission is the Minister for Home Affairs. The other 5 Members are appointed by the Cabinet Office, for 5 year terms and are eligible for reappointment at the end of the terms. Our Members are:

Chairman: Hon W M Marlarkey MHK  
Mr N M Cordwell  
Mr M E Mawdsley  
Mr R Frize  
Mr J P Donnio  
Mr B Parkin

To achieve a majority when making decisions, a similar vote from 4 Members is required. The Chairman holds an equal vote.

Board Meetings are held on a bi-monthly basis, though special meetings can be held where necessary. To achieve a quorate there must be a minimum of 4 Members. Attendance at Board Meetings for the year 2016 is detailed in **Table 1** below. Note that there were 7 meetings held over the year.

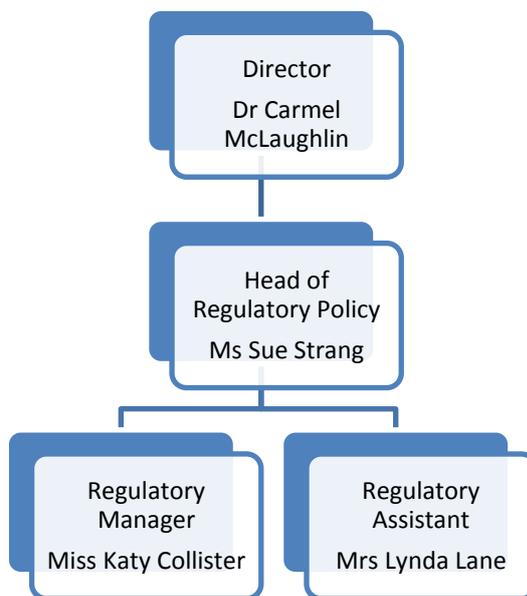
**Table 1**

<b>Name</b>	<b>Attendance</b>
Hon W M Marlarkey MHK*	3 (100%)
Mr N M Cordwell	7 (100%)
Mr M E Mawdsley	7 (100%)
Mr R Frize	7 (100%)
Mr J P Donnio	7 (100%)
Mr B Parkin	5 (71%)

\* Hon W M Marlarkey MHK's first Board meeting was October 2016

## Staff

The Commission has a staffing establishment of 4 full-time equivalent staff organised as follows:



### **Dr Carmel McLaughlin - Director of the Communications Commission**

Dr Carmel McLaughlin took up her position as Director of the Communications Commission in July 2008 and has over twenty years' experience in communications regulation. Dr McLaughlin left the Office of Communications (Ofcom) in London, where she was a Principle within the Spectrum Policy Group, to take up her position in the Isle of Man.

Prior to Ofcom, Dr McLaughlin worked for four years at the Commission for Communications Regulation (ComReg) in Dublin and previously held a number of management appointments with Ofcom legacy regulators (the Independent Television Commission and the Independent Broadcasting Authority).

Dr McLaughlin has a PhD from the University of Cambridge, a BSc from the University of Edinburgh and is a former pupil of Kylemore Abbey School, Connemara, County Galway.

### **Ms Sue Strang - Head of Regulatory Policy**

Sue has worked for IOM Government since 1997, firstly in the Department of Education before transferring to the Department of Trade and Industry to specialise in employment law and policy. She moved to the Department of Community, Culture and Leisure as Legislation and Policy Manager in 2010 before joining the Communications Commission in 2012.

Sue has a law degree from Nottingham University and a Masters in Law and Employment Relations from Leicester University. She has many years of experience in working on the development of primary and secondary legislation.

### **Miss Katy Collister - Regulatory Manager**

Katy joined the Commission in July 2016, having previously worked within the Isle of Man Office of Fair Trading and Economic Affairs within the Cabinet Office.

Katy has a degree in Business Economics from Lancaster University and a Postgraduate Diploma in Economics for Competition Law from King's College London.

### **Mrs Lynda Lane - Regulatory Assistant**

Lynda Lane joined the Commission in March 2014, having previously worked as a PA in the Chief Executive and Minister's Office within both the Department of Social Care and the DHSS. Lynda worked off island for many years for Merseyside Police and undertook various roles including managing a busy Performance Management Information Unit, was an Admin Manager within a Training Unit and also worked as a Clerical Officer within the Traffic Department for 12 years.

## **WHAT WE DO**

The Communications Commission licenses and regulates telecommunications and broadcasting in the Isle of Man under the Telecommunications Act 1984, the Radio Masts Regulation Act 1988 and the Broadcasting Act 1993. We act independently of Government and commercial interests in order to carry out our activities and operate in a manner to promote consumer's best interests.

Our core and statutory functions focus around the following sectors:

### **Telecommunications**

The Commission exercises its functions in the manner that it considers best promotes the interests of consumers, purchasers and other users of telecommunications services in the Island. It aims to ensure that all those who run telecommunications systems comply with the terms and conditions of their licences. It works in coordination with other Departments to implement the Government's broader space, e-business and Vision 2020 strategies.

The Commission liaises closely with the UK Office of Communications (Ofcom). The Island is part of the UK Telephone Numbering Scheme and Ofcom manages the radio spectrum on behalf of the UK Government, Crown Dependencies and Overseas Territories.

### **Broadcasting**

The Commission licenses and regulates the content of programme services provided from places in the Isle of Man. All local broadcasters must comply with the Commission's Codes of Practice on programme content, advertising and sponsorship.

### **Spectrum**

The Commission works closely with Ofcom on radio spectrum issues. Ofcom is responsible for the licensing of radio spectrum under the Wireless Telegraphy Act 2006, which it does in consultation with the Commission to take into account differences between UK and Isle of Man Government policies.

### **Radio Masts**

The Commission licenses the commercial site sharing of transmitter mast facilities on the Island for both the public and the private sectors.

### **Space**

The Commission places filings for geostationary satellite orbital slots through Ofcom to the International Telecommunications Union (ITU), through its contractors.

### **Income Generation**

The Commission charges licence fees to its licence operators which fund its operations and consistently generates a surplus of around £500,000 for Treasury.

## **PROGRAMME FOR GOVERNMENT 2016-2021**

We are pleased that the work of the Commission and telecommunications features highly in the 2016-2021 Programme for Government<sup>1</sup>. The following are the items which will either fall within the Commission's responsibility or will have an effect on our work:

- **Outcomes**

- We have utilities that support our Island communities and businesses
- We have more responsive legislation and regulation

- **Policy Statements**

- Maintain our reputation at the forefront of innovation and emerging technologies and respond quickly to new business models
- Ensure we are a digital Island, ready for new technologies like 5G, so we are competitive now and in the future
- Set out a more active role for the Communications Commission in the pricing and quality of our telecoms provision
- Introduce new legislation for telecommunications which creates a more effective regulatory framework in this area
- Rationalise regulation and ensure that it better supports our economy, environment and community
- Maximise the efficiency of the services delivered through digital and tele-health care
- Intervene where necessary in those markets where there is a dominant market presence, in order to ensure reliable, sustainable and beneficial services for the Isle of Man economy and consumers

- **Actions**

- Consult on a minimum 10Mb universal service obligation for broadband
- Fully implement our Freedom of Information regime by 2018 and extend an open Government policy
- Modernise the Telecommunications Act and work with industry to review associated mechanisms so that consumers are better served

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<sup>1</sup> <https://www.gov.im/media/1354840/programme-for-government.pdf>

At the April 2017 sitting of Tynwald, the report titled "Delivering the Programme for Government" was considered. This report suggested that the take up of VDSL broadband, plus sync speed data from the network into the router, could be a national indicator for measuring the quality of broadband. We are committed to working with Government to help to measure this indicator.

## **THIS YEAR AT A GLANCE**

During the financial year 2016/17 there has been a wide and varied range of work undertaken by the Commission. Some of the highlights are noted below:

### **Telecommunications**

- We received Manx Telecom's first set of separated accounts at the end of 2016 which are required to ensure it fulfils its other obligations of transparency, non-discrimination and cost-orientation, and we have begun our review of these accounts
- We carried out work into costings which resulted in reductions in wholesale leased line prices and VDSL broadband
- We have assisted with facilitation of working groups between the fully licenced operators to develop wholesale products to enhance competition.
- We have supported operators with the introduction of Fixed Number Portability, with an expected launch date of Q3 2017.
- We began our review of market statistics collected and published and aim to produce a new range of statistical figures in the coming months and to keep what we collect and publish under review
- We assisted the Department of Economic Development with its Telecommunications Infrastructure Review
- We set up working groups for the telecommunications licenced operators
- We created and published a set of principles for use of Isle of Man numbers which operators must adhere to. This is important if we are to maintain 6 digit dialling in the Isle of Man
- We have continued to chair the Licenced Operator (LO) forum at bi-monthly intervals, to allow operators a chance to discuss and develop solutions to industry wide issues
- We amended Sure's Telecommunications Act licence to include Code Powers
- We attended working groups aimed at reforming planning policy and wayleave regimes to assist in the roll out of 5G
- We consulted on Mobile Termination Rates remaining at 1.25ppm and that decision was implemented with effect from 1<sup>st</sup> May 2017.
- We worked with DED on the finalisation of a report into the Technology infrastructure of the Island and its sustainability into the future.

- We commissioned a report to look at options for further development of Broadband on Island.
- We assisted and advised on a number of enquiries regarding potential new licenced entities.

## **Broadcasting**

- We published a set of procedures for dealing with broadcasting complaints
- We partially upheld one complaint which resulted in a right of reply being offered and subsequent apology to the complainant
- We issued a statement of Compliance to Manx Radio covering the period 2016-17 stating that we partially upheld 1 complaint on the basis of not offering the right of reply, as required under Section 2.14 of the Programme Code
- We assisted Treasury on a report on the future of Manx Radio's AM transmission network

## **Space**

- We engaged in a procurement exercise and awarded two Agreements, to ManSat Ltd and SES Satellite Leasing Ltd, to allow for the respective companies to engage in satellites filings through the Isle of Man.

## **Legislation**

- We continued to work through the responses to the Communications Bill consultation
- We began testing licences under the Communications Bill to ensure they remain fit for purpose
- We worked with Ofcom to extend a number of Regulations under the Wireless Telegraphy Act. A full list of extended Regulations will be made available on our website soon

## TRANSPARENCY AND ACCESS REQUESTS

### Consultations

Consultation is a vital part of a caring society and an essential means of two-way communication between government, regulators and the public. As such, it is very much in line with the principles of openness and community focus endorsed by the Isle of Man Government and Tynwald.

The purpose of consultation is to gather views and comment so that issues are decided, as far as possible, on consideration of all the relevant information and arguments. It informs the decision-making process, raising points to be taken into account that might otherwise have been overlooked. The Commission is dedicated to working in an open and transparent manner.

During 2016/17 year the Commission went out to public consultation on two separate matters:

- Between 13 May and 13 June 2016 the Commission consulted on its recommendation to award [Code Powers to Sure \(Isle of Man\) Limited](#) following an application. This recommendation was carried and Sure's licence was subsequently amended.
- Between 21 February and 22 March 2017 the Commission consulted on its recommendation for the [Mobile Termination Rate](#) to remain at 1.25ppm. Two responses were received and the recommendation carried.

Additionally, we also consulted with Licenced Operators (LOs) on various matters, including:

- Between 8<sup>th</sup> November and 2<sup>nd</sup> December 2016 we consulted LOs regarding our wish to collect and publish an assortment of market statistics data. This was a useful exercise and we are now in the process of collecting and compiling a new range of statistics to publish, relating to Q1 2017 onwards.
- Between 7<sup>th</sup> February and 7<sup>th</sup> March 2017 we consulted on updating the Other Licenced Operator (since renamed Licenced Operator) forum terms of reference. The updated version was published on our website in April 2017<sup>2</sup>.
- Between 27 March and 24 April 2017 we consulted LOs on a draft Voluntary Code of Practice for Broadband speeds. Work on this is still progressing

### Information Access Requests

During 2016 the Commission received no requests for information under the Code of Practice for Access to Government Information, or under the Data Subject Access Request provisions within the Data Protection Act 2012.

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<sup>2</sup> <https://www.iomcc.im/media/1101/licenced-operator-forum-terms-of-reference-april-2017.pdf>

## LICENSING

### Telecommunications Licence Holders

The enabling legislation for Telecommunications licencing is the [Telecommunications Act 1984](#).

Operator	Licence Type
Arqiva Limited (formally NTL)	Telecommunications systems for the provision of television transmission services
Arqiva Limited (formally National Grid Wireless; Crown Castle; Castle Transmission)	Telecommunications systems for the provision of television and radio transmission services
Bluewave Communications Limited	Telecommunications Systems of every description within the Island that provide only Internet and Internet related services
Classic FM Plc	Telecommunications systems for the provision of sound broadcasting services
Continent 8 Technologies Plc	Telecommunications Systems of every description within the Island that provide only Internet and Internet related services
CVC Acquisition Company (UK) Limited	Telecommunication system of any description within the Isle of Man that forms part of a telecommunication system which conveys messages between Halifax, Nova Scotia and Southport, England
Department of Home Affairs (Communications Division)	Provision of radio transmission services and Government communications services
Domicilium (IOM) Limited	Telecommunications Systems of every description within the Island that provide only Internet and Internet related services
e-Ilan Communications Limited	Telecommunications systems of every description within the Island which are owned or controlled by an Isle of Man Government Department or Statutory Board and are for the purpose of providing private circuits
Energy Communications Limited	Telecommunications systems for the provision of sound broadcasting services
Manx Telecom Limited	Telecommunications systems of every description within the Isle of Man
SES Satellite Leasing Limited	Telecommunications systems of every description within the Island that are Stations for Wireless Telegraphy or Wireless Telegraphy Apparatus used to transmit Messages to or receive Messages from earth orbiting apparatus
Sure (Isle of Man) Limited (formally Cable & Wireless IOM)	Telecommunications systems of every description within the Isle of Man
Vodafone Group Plc	Telecommunications system of any description within the Isle of Man that forms part of a telecommunication system which conveys Messages within the Isle of Man and between Great Britain and Northern Ireland
Wi-Manx Limited	Telecommunications systems of every description within the Isle of Man

## Broadcasting Licence Holders

The enabling legislation for Broadcasting licencing is the [Broadcasting Act 1993](#).

<b>Operator</b>	<b>Licence Type</b>
3FM Limited	Provision of a sound broadcasting service
Island FM Limited (Energy FM)	Provision of a sound broadcasting service
Radio Manx Limited (Manx Radio)	Provision of a sound broadcasting service

## Radio Mast Licence Holders

The enabling legislation for Radio Mast licencing is the [Radio Mast Regulation Act 1988](#).

<b>Operator</b>	<b>Licence Type</b>
Arqiva (formally NTL)	Erection, installation, replacement or use of radio masts and antenna systems
Arqiva (formally NGW)	Erection, installation, replacement or use of radio masts and antenna systems
Department of Home Affairs (Communications Division)	Erection, installation, replacement or use of radio masts and antenna systems
NATS Holdings Limited	Erection, installation, replacement or use of radio masts and antenna systems

## New Applications

During the period, there were no new applications received for Telecommunications, Broadcasting or Radio Mast licences.

We did receive one application for a licence amendment, however the Commission required further information before it could consider the application. The information is still awaited.

## **COMPLIANCE**

### **Compliance – Telecommunications**

During 2016/17 there were no breaches of licence conditions.

### **Compliance – Broadcasting**

During 2016/17 there was 1 broadcasting complaint partially upheld by the Commission, against Radio Manx Limited (Manx Radio).

There was also 1 advertising campaign removed from air as broadcasters felt that it could have breached the [Code of Advertising and Sponsorship](#) by quoting the word “free” when there was in fact a charge for the product in question.

## WHAT WE SAID .VS. WHAT WE DID

The Business Plan for 2013-2016 set the Commission a range of objectives, as set out below. This section details whether those objectives were met and if not, why we did not meet them.

1. Successfully undertake the 4G mobile spectrum award, ensuring the licensees achieve successful roll-out of their networks, according to the criteria and timings set out in the licence(s) issued. **Objective Met**

We consulted on awarding spectrum during 2013 and subsequently awarded licences to Manx Telecom and Sure. We requested periodic updates on roll-out statistics from both operators to ensure adherence to the licence conditions. Both operators have met, and we understand have now exceeded, the coverage requirement in their licences of 95% population coverage for 4G.

2. Bring the Communications Bill to the branches of Tynwald, following stakeholder consultation. **Objective Partially Met**

A great deal of work has gone into preparation of a draft Communications Bill and thanks are due to the Attorney General's Chambers for the resource that they have provided to assist with drafting of the Bill. The first draft Bill went out to consultation in 2015, which provided a wide variety of helpful and thorough feedback from various institutions. Working through these responses took longer than anticipated and this meant that we did not meet our objective to get the Bill to the branches of Tynwald by the end of 2016, but instead we are now working towards a target of the end of 2017.

3. Take the Communications Bill through the branches of Tynwald, obtaining parliamentary agreement (and eventual Royal Assent). **Objective Not Yet Met**

As detailed above, work is still progressing on the Communications Bill.

4. Complete the process of opening up the Island's wholesale telecoms markets through the Other Licensed Operators (OLO) forum, so that a first set of wholesale products are specified and developed, and an active process for future products is in place and operating. **Objective ongoing.**

The OLO forum continues to meet (generally on a bi-monthly basis) and this has provided a useful mechanism for discussion of new products and subsequent development. Some of the new products include wholesale line rental and fixed number portability, which is currently at the final stage of development. We have since re-named this forum the Licenced Operator (LO) forum.

5. To keep the Isle of Man at the forefront of innovation in communications technology and services, through the development of a 'test & trial' licence regime to allow use of the Island's land and spectrum resources for testing new applications. **Objective ongoing**

The Island remains committed to using its spectrum efficiently and to the best effect for consumers and has undertaken consultations on and awards of spectrum in the 3.4GHz band, 3.6 GHz band as well as for 4G.

6. Overhaul the licensing processes in all sectors. This would involve streamlining, allowing for renewals, test & trial licences etc. **Objective Partially Met**

This work stream must lead out of the Communications Bill being taken through the branches of Tynwald. However, work has begun in relation to testing whether the licences in

their current format are compatible with the Communications Bill. We will make the necessary amendments as and when required to ensure the licences remain fit for purpose.

7. Overhaul the fees structure in all sectors. This will involve ensuring licensed activities are subject to fees (if desired) and that these are proportionate and maintain returns to the IoM Treasury. **Objective Met**

During 2014 the Commission consulted on increasing the ISP licence fees and subsequently introduced the amendment. In 2016 we also published a set of guidance on how to calculate the licence fee payable to the Commission to ensure that all relevant turnover is included and non-regulated activity revenue is not. The Commission also issued a licence for Earth Stations for SES to build a teleport on the Isle of Man to provide satellite telemetry, tracking and commanding facilities and the potential to provide a range of broadcasting and data service.

8. Continue the Commission's current work with the BBC, ITV and Ofcom on matters such as the representation of the Island in the media, service reception on-Island, spectrum licensing and coordination, and regulatory standards and practice. **Objective Met**

We stay in regular contact with other regulators and provide advice and assistance where we can, in return for the same. This ensures that we can learn from other jurisdictions experience. We have organised a Small Regulators Conference for May 2017 which will allow for an open forum within which we can share and learn from the experience of other regulators in small jurisdictions.

9. Review and revise Broadcasting codes. **Objective Not Yet Met**

This work stream must lead out of the Communications Bill being taken through the branches of Tynwald.

10. The Commission will continue to work with ManSat to develop the Island's satellite filings industry, and will consider (along with Government) the best way for the Island to proceed following the end of ManSat's contractual exclusivity in 2016. **Objective Met**

Mansat have worked with the IOM Government on Satellite filing for many years. Following a decision by the Council of Ministers to put the rights to file satellite through the Island out to tender to allow for wider commercial opportunities , we subsequently engaged in a procurement exercise and awarded Agreements to 2 companies, ManSat Ltd and SES Satellite Leasing Ltd.

## Income and Expenditure – Year Ending 2016/17

During the year 2016/17 the Commission earned a surplus of just over £593,000.

<b>Income</b>	Budget 2016/17	Amount Received at 31/03/17
Licence Fees	£401,238.00	£553,293.24
Ofcom Tender Payments	£1,150.00	£10,712.89
Ofcom Wireless Telegraphy Act Payments	£355,680.00	£455,127.80
<b>Totals</b>	<b>£758,068.00</b>	<b>£1,019,133.93</b>

<b>Expenditure</b>	Budget 2016/17	Amount Paid 31.3.17
Salaries, Pension, NHI etc. (staff and Members)	£366,218	£298,688.64
Travelling & Subsistence	£5,000	£1,264.53
Fixtures and Fittings	£1,000	£
Rent and Rates	£1,850	£1,096.17
Printing and Stationery	£1,259	£61.70
Office Equipment/Expenses	£5,146	£2,963.03
Training and Conferences	£9,000	£7,946.90
Computing	£1,000	£
Professional Services	£124,000	£111,620.92
Hospitality/Members Allowances	£1,000	£812.41
Books and Publications Gen	£1,000	£299.95
Telephone Charges	£3,000	£1,104.99
<b>Totals</b>	<b>£520,360</b>	<b>£425,859.24</b>