

**MINUTE OF A MEETING OF THE MEMBERS OF THE SCOTTISH LEGAL COMPLAINTS  
COMMISSION: 10AM TUESDAY 29<sup>th</sup> January 2019  
Venue: The Stamp Office, 10 – 14 Waterloo Place, Edinburgh, EH1 3EG**

**PRESENT:**

**LAY:**

Jim Martin (Chair)  
Sara Hesp (via telephone till 11.15)  
Emma Hutton  
Michelle Hynd  
Sarah McLuckie  
Morag Sheppard

**LAWYER:**

Denise Loney  
Amanda Pringle  
Kay Springham

**In attendance:**

Neil Stevenson (CEO) (Items 1-21) [REDACTED] (secretariat – minutes) (Items 1-21)  
Sophie Flemig (DoPP) (Items 4 & 7) Caroline Robertson (DoR) (Items 5 & 6)  
Louise Burnett (DoBP) (Items 8, 9, 10, 12 & 15)

**Abbreviations used:**

F&CSM – Finance and Corporate Services Manager	CM – Clerking Manager
WIP – Work in Progress	DC – Determination Committee
FMR – Financial Management Report	LSS – Law Society of Scotland
AC – Audit Committee	FoA – Faculty of Advocates
CI – Case Investigator	CIM – Case Investigations Manager
SGvt – Scottish Government	FO – Facilities Officer
ABS – Alternative Business Structures	OH – Oral Hearing
IMT – Investigations Management Team	CoS – Court of Session
JT – Journey Time	WT – Working Time
DoR – Director of Resolution	DoPP – Director of Public Policy
DoBP – Director of Business Performance	IA – Internal Auditor

**Private Member only session**

This session was attended only by the Board no minute was taken of this private session.

*With the private session concluded with the CEO, DoPP and Secretariat joining the meeting at 10.45am*

**1. Welcome**

- 1.1 The Chair welcomed everyone to the Board meeting and thanked everyone for their input into the private member session.
- 1.2 The Chair advised that in order for the new SMT to join the meeting for specific papers, the Agenda would be adjusted accordingly and future Agendas reviewed.

**2. Apologies**

- 2.1 None were received.

**3. Declaration of Interests**

- 3.1 Member Emma Hutton declared an interest, as she is a member of the Public and Commercial Services (PCS) Union; this is in relation the HR Update in the Key Issues paper. No other declarations of interest were made, other than the standard declarations of interest declared by Denise Loney, Amanda Pringle and Kay Springham in relation to any pecuniary interest with regards to budgetary discussions.

**4. Key Issues**

4.1 **Independent Review** - Members had a free and frank discussion about the issues raised from the output of the Independent Review document and discussed how this was impacting on the SLCC's relationships with our various stakeholders.

4.2 It was noted that the DoPP, as part of the induction programme, was meeting with a number of key stakeholders and service users. The DoPP advised that it was not anticipated that the SGvt would be consulting on the Independent Review document before the summer recess. Members discussed various options available but were keen to stress there was a need to balance the strategic influence of the SLCC, to ensure it moves forward with an appropriate function but also to ensure the Board protects the interests of the SLCC, as they have a duty of care to the SLCC and it's staff. Members were conscious that there were issues within the statutory remit of the legislation that needs addressed and that there was also a need to look wider than this at how our duties interfaced with others, they felt the Independent Review document does this.

4.3 The Chair sought clarity that there was still commitment to the policy lines in the #ReimagineRegulation papers that had been submitted to the review, and to the position taken in the statement when the review was published. This was confirmed by the Board as the current policy position.

4.4 Following discussion the Chair agreed that SMT should prepare an additional paper to allow Members to fully consider the next steps in developing policy, including considering all the provisions of the Independent Review in preparation for the likely consultation, with this to be discussed in detail at the next Board Meeting.

Action	Owner	Due Date
DoPP to prepare a paper on all the provisions of the Independent Review.	DoPP	By 19 March 2019

*11.15am Member S Hesp left the meeting by telephone*

4.5 **PCS Union** – Members noted that the SMT were engaging with the PCS union on a constructive and informal basis. Members noted the union had indicated that around 25% of staff are now PCS members and that this would allow the PCS to use the statutory process for formal recognition. The CEO advised that the key themes for PCS union recognition with staff have been around salary, enhancing staff benefits and staff recognition, the management changes, and uncertainty from the independent review. It was noted there may be work coming from recognition, such as work to review the Employee Handbook.

4.6 Members sought clarification on the parameters of the delegated authority permissions to the CEO. The CEO explained that the SGvt current policy is supportive of union recognition and in order to ease the transition and implementation of the PCS, both current staff reps have intimated they were willing to become the PCS reps. This will help create a phased transition. It was acknowledged there will be opportunity cost for PCS reps training and 'facility' time/days, and there might be a requirement to adjust internal case targets for these staff to reflect that. Members reminded SMT that they would need to give consideration as to whether PCS reps would be 'voted in' every year. Members noted that any concerns raised by staff who don't wish to become union members or who would prefer to continue with staff representatives need to be addressed.

4.7 Members agreed with the CEO's recommendation, and delegated authority to sign a formal recognition agreement through the informal, rather than statutory, process.

4.8 **Website Update** – Members found the presentation earlier very helpful, and were looking forward to the future launch later this quarter.

4.9 All other updates within the paper were noted by Members. The Chair thanked the CEO and DoPP for their updates to the paper presented.

**5. Q2 Operating Plan 2018/19 Update**

5.1 The DoPP spoke to the paper presented and advised that of the 19 current projects, one project target, relating to website redesign, had been at risk of being delayed slightly, and potentially could have slipped to amber. However, the authorisation of a small amount of overtime will get this back on track by mid-February, with work being completed on schedule. Members sought confirmation as to when the Board would hear from the LSS on the operation of the Client Protection Fund. The Secretariat confirmed this date had been set for the July Board Member Development Session.

5.2 Members also sought clarification on whether all staff were now using the case management system and reporting of data to its fullest potential. The CEO advised that there was constant messaging to staff on this, the exception being any 'Sprint' data currently being recorded separately. Newpro would be upgraded as planned in June. The DoBP has a task to review our current case management system to ensure it is the right system for our current processes. It was noted that there was still a reliance on spreadsheets in some areas, but that the DoBP was due to review this. The SMT were still waiting on the output of the draft report from the recent Internal Audit by Scott Moncrieff, which was carried out on the case management system accuracy and reporting. It was agreed the CEO would follow this up with IA.

Action	Owner	Due Date
CEO to follow up with IA to seek the output of the draft report on the recent case management system audit.	CEO/DoBP	By 19 March 2019

*11.30am DoPP left and DoR joined the meeting*

**6. Q2 Long Term Trends 2018/19 Update**

6.1 The DoR spoke to the paper presented and Members noted that JT was continuing to show improvement. Members sought clarification as to what was the current waiting time for a case to be allocated. The DoR advised it was up to 12wks, with currently 261 cases that are being triaged before holding for allocation.

6.2 Following discussion Members requested that SMT now prepare and add a summary page at the front of the Long Term Trend document.

Action	Owner	Due Date
CEO and DoR to include a summary sheet at the front of the Long Term Trends reporting document.	CEO/DoR	By 19 March 2019

6.3 The Chair sought clarification from the DoR as what was the length of time the oldest cases were in the system. The DoR confirmed there were still 7 cases which are HCF, of these 2 cases from 2012 have now been returned from the RPO and are now at DC stage, there were 2 complicated negligence cases which are still suspended and 3 which were subject to re-categorisation and are very complicated. The Chair raised concern that some of these cases had been in the system for over 7years and stressed this was not good enough. The Chair sought assurance that the DoR was ensuring that everything could be done to prioritise and move these cases forward as quickly as possible. The DoR confirmed they were, it was noted that one of these cases had been subject to a CoS hearing twice, as a result it now contains 30 archive size boxes of correspondence and has been suspended because of court action. The CEO reminded Members that all these cases were included WIP figures, including for the whole period they were with the relevant RPO (if they come back to us to consider the service element later). The Chair reiterated his concern that these cases were in the system, suspended, affecting our WIP and wonders if they should be extracted for WIP reporting purposes, ie split service and conduct, length of time taken needs reporting on. The CEO and DoR to consider how WIP is presented in the future...

**7. Management Information to 31 December 2018**

7.1 Members noted the paper as read.

11.35am DoR left and DoBP joined the meeting

**8. Q2 2018/19 HR Update**

- 8.1 The CEO spoke to the paper presented and updated Members that a date has been set for the pre EAT hearing for mid-February. During this EAT the party litigant will have the opportunity to speak for one hour, and the judge will consider whether to change their written view that there are now ground of appeal to a full EAT. Whilst the SLCC can be present they will not be able to participate in this pre EAT hearing.
- 8.2 Members noted the rest of the paper as read.

**9. Q2 2018/19 Financial Management Report**

- 9.1 The DoBP spoke to the papers presented.
- 9.2 FMR – 6 months to 31 December 2018 – Members noted Income from Recoverable Complaint Levies of £12k, and expenditure of direct staff costs showing a continued overspend. Members sought clarification on the EAT provision and whether it would be absorbed in this financial year if the decision is received after the EAT next month. The CEO confirmed it would be and figures would be adjusted accordingly for the rest of the year. Members also noted an overspend on both Communication and IT budgets, the CEO advised an additional £3k was spent on the new website provision. Members noted that further consideration should be given to IT, with the DoBP reviewing our current provision.
- 9.3 Members wondered if we were seeing a trend in practitioners having any financial difficulty in the payment of complaint levies imposed at DC stage. The DoBP advised no more than usual, but there can be challenges to recovering these costs, however, finance do offer an option to pay by instalments, if required.
- 9.4 It was noted that Reserves for end June 2019 were anticipated to be in the region of £418k.
- 9.5 Balance Sheet – Members noted the balance sheet presented.
- 9.6 The Chair thanked the DoBP and CEO for their update and explanation to the figures presented.

**10. Update on Draft Budget and Operating Plan 2019/20**

- 10.1 The CEO advised that all updates suggested by Members had been incorporated into the draft documents; these would be circulated to all stakeholders for consultation on Thursday this week. Members agreed that the CEO would circulate a final copy to them by email, with the Board agreeing that the CEO would approve the final version as only minor formatting and drafting issues were outstanding, thus ensuring this is sent out for consultation before the end of January 2019, as required by the 2007 Act.

Action	Owner	Due Date
CEO to finalise the draft Budget and Operating Plan ready for consultation to all stakeholders by Thursday 31 <sup>st</sup> January 2019 and circulate to a final copy to Members by email.	CEO	By 31 January 2019

**11. Risk Register**

- 11.1 The DoBP advised that no significant issues or major changes had been made to the Risk Register since the AC meeting earlier this month. Members noted that the DoBP will review Risk Register following the AC meeting and will share an updated document with the AC Chair. Members noted the paper as read.

**12. Q2 2018/19 Customer Update**

- 12.1 Members noted the paper as read and noted the methodology has been changed slightly and wondered if SMT would be able to compare YoY. The CEO confirmed they would.
- 12.2 Members sought clarification as to whether the figures at response rates were recorded as percentages or actual responses. The CEO confirmed they were percentages. Members noted the rest of the paper as read.

**13. Appeals Update**

13.1 Members noted the paper as read.

**14. Summary of feedback on Investigation Reports**

14.1 Members noted the paper as read and reiterated that they would like all DC feedback given to CIs. The CEO confirmed it was.

**15. Amendment to the Scheme of Delegation**

15.1 The CEO spoke to the paper presented and advised that the proposed changes were the incorporation of the new SMT structure and no other changes have been made. Members confirmed their approval of the proposed changes.

**16. Board Actions Register**

16.1 Members noted the ongoing Actions and the CEO advised an update would be provided on Action 284 at the March Board Meeting.

16.2 The Chair agreed all other completed actions should be removed from the register.

**17. Minutes of Previous Meeting from 18 December 2018**

17.1 The Minute of the Board Meeting from 18 December 2018 was approved as read, with the Secretariat adding in Member, M Hynd who was in attendance and missed off from the list of attendees. Apologies were given for this oversight by the Secretariat.

**18. Chairman's Report**

18.1 Members noted the verbal update from the Chair.

**19. Chief Executive's Report**

19.1 The Board noted the paper presented.

**20. Date of Next Meetings**

20.1 Members noted the dates of the next meetings as:

- Board Development Session will commence at 2pm on Monday 18 March 2019
- Board Meeting will take place at 10am on Tuesday 19 March 2019

**21. AOCB**

21.1 None.

*12.15pm CEO, DoBP and Secretariat left the meeting*

**Private Member only session, after which the Chair advised the Secretariat on item 22.**

**22. Chief Executive's Six Month Review**

22.1 The Chair confirmed that Members noted and agreed with Chair's presented paper on the proposed 6-monthly Appraisal for the CEO during their private session.

**23. Review of the Meeting**

23.1 With no other business the meeting concluded.

*12.25pm Board Meeting ends*

