

**MINUTE OF A MEETING OF THE MEMBERS OF THE SCOTTISH LEGAL COMPLAINTS
COMMISSION: 10.00AM TUESDAY 22nd OCTOBER 2019**

Venue: The Stamp Office, 10 – 14 Waterloo Place, Edinburgh, EH1 3EG

PRESENT:

LAY:

Jim Martin (Chair)
Sara Hesp
Emma Hutton
Michelle Hynd
Sarah McLuckie
Morag Sheppard

LAWYER:

Denise Loney
Amanda Pringle
Kay Springham

Guest in attendance as an Observer:

Shaben Bagum, Chair of SLCC Consumer Panel

Apologies:

None

In attendance:

Neil Stevenson (CEO) (Items 1-23) [REDACTED] (Secretariat – minutes) (Items 1-22)
Caroline Robertson (DoR) (items 11-19) Louise Burnett (DoBP) (Items 4-8)
Vicky Crichton (DoPP) (Items 9&10)

Abbreviations used:

F&CSM – Finance and Corporate Services Manager
WIP – Work in Progress
FMR – Financial Management Report
AC – Audit Committee
CI – Case Investigator
ABS – Alternative Business Structures
IMT – Investigations Management Team
JT – Journey Time
DoR – Director of Resolution
DoBP – Director of Business Performance
RC – Remuneration Committee

CM – Clerking Manager
DC – Determination Committee
LSS – Law Society of Scotland
FoA – Faculty of Advocates
CIM – Case Investigations Manager
SGvt – Scottish Government
CoS – Court of Session
WT – Working Time
DoPP – Director of Public Policy
IA – Internal Auditor
EA – External Auditor

Private Member only session

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

With the private session concluded with the Observer, CEO and Secretariat joining the meeting at 10.20am. The Chair advised that the Board would adjust the Agenda items in order for relevant SMT Members to join and speak to papers presented.

1. Welcome

- 1.1 The Chair welcomed everyone to the Board meeting and thanked everyone for their input into the private member session and the Board Development Session.
- 1.2 The Chair in particular, extended a warm welcome to our Observer, Shaben Bagum, who is Chair of the SLCC Consumer Panel; introductions were made around the table.
- 1.3 The Chair reported during the private session Members discussed the CEO Annual Pay Award. It was agreed the Chair would discuss this with the DoBP and CEO after the Board Meeting.

2. Apologies

- 2.1 None.

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 to the PCS Update in the HR 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. Annual Audit Report from Deloitte, EA

- 4.1 The AC Chair reported that this was discussed in detail at the AC meeting, it was noted there were two recommendations on medium to long term financial planning and financial sustainability which are being considered by SMT. The AC Chair also advised that SMT were also working on the Workforce and Succession Planning. The AC Chair reported a depletion of reserves and recommended the Board reserves be increased over time to the equivalent of 3months of expenditure. The AC acknowledged this as a positive report from Deloitte.
- 4.2 Members sought clarification on whether the Board should consider longer term financial planning, ie 3-5years. The AC Chair confirmed this has been recommended. The DoBP acknowledged that this will be built into this year's projected budget and financial planning process, to include projections based on assumptions.
- 4.3 Members noted and approved the EA Audit Report.

5. Draft Annual Accounts for 2018-19

- 5.1 The DoBP spoke to the paper presented. Members noted that these had been reviewed at both the previous Board and Audit Committee Meetings. The DoBP advised that these had been formally approved by the AC, provisionally signed by the CEO and Deloitte on 7 October 2019. The CEO, as Accountable Officer signs the accounts. The CEO confirmed that the accounts were provisionally signed in front of the External Auditors, Deloitte.
- 5.2 The AC Chair noted the discussion which had taken place at AC, and that there were no concerns in relation to the Accounts.
- 5.3 Members sought clarification on the inclusion of Trade Union Facility Time within the accounts and wondered if this would include specific time spent on TU duties. The DoBP advised that it was not recorded this way at present, the requirement was to record by percentage of time spent on TU duties.
- 5.4 Members noted and approved the Annual Accounts.

6. Q1 Financial Management Report

- 6.1 The DoBP spoke to the papers presented.
- 6.2 FMR – 3 months to 30 September 2019 – Members noted Income from annual subscription levies received amounted to £3,704,315, which is £83k more than budgeted and this is due to changes in membership numbers from regulated bodies and a difference between their projections on numbers and our more cautious approach. It was noted we had also received £8k from the LSS in respect of the Approved Regulator Levy. Recoverable complaint levies of £52k have been generated in the first three months of this financial year. Bank interest to date is £13k, and will remain consistent with £4k interest being received from mid-November onwards.
- 6.3 Expenditure on direct staff costs continue to rise due to ongoing recruitment costs, though it should be noted that two staff members have decreased hours. It was noted that case related legal costs have increased for this quarter, £82k having being spent to date. This will be monitored, and all cases ongoing are reported to the Board in the Appeals paper.
- 6.4 The DoBP advised that early budgeted out-turn for 2019/20 predicts an excess expenditure of £63,500 and an income excess of £103,771. This would convert a budgeted deficit of £406 into a surplus of £39,865. It was noted that Reserves are anticipated to be in the region of £433,321 by 30 June 2020 which represent approximately 1.3months of average expenditure. This is below our current policy of holding 3months of operating costs as reserves, which based on 2018/19 will be approximately £591k.

- 6.5 Balance Sheet – Members noted the balance sheet presented.
- 6.6 The DoBP reported the fixed assets have a book value of £51k, this reflects the capital spend on the Newpro upgrade and office redesign work completed in this financial year
- 6.7 Following a free and frank discussion it was agreed that additional income, above anticipated income, was effectively held as reserves as the SMT target was to deliver on the budgeted expenditure (not income). Members also requested that the DoBP track costs of cases appealed to the CoS and separated out where no costs are awarded to the SLCC due to party litigant cases being appealed. It was also agreed that the policy remained of seeking to restore reserves to a minimum of 2months operating costs and any other variances to budget would be brought to the Board of further discussion and approval.
- 6.8 The Chair thanked the CEO and DoBP for their update and explanation to the figures presented.

7. Q1 2019/20 HR Update

- 7.1 The DoBP spoke to the paper presented. Members noted the current recruitment status in particular: the internal movement between grades; and that the Complaints Team Member recruitment had concluded and two new staff members started on 7 October. The Mediation Co-ordinator recruitment also resulted in an internal promotion. The DoBP updated on the current situation with the vacant posts of F&CSM and HoSI, and advised they were currently recruiting for an HR Advisor and CSO, with interviews taking place early November for both roles.
- 7.2 The DoBP reported there were 7 leavers in Quarter 1, with 2 advised for Quarter 2. Other variance in FTE headcount figures were due to long-term absences which were being managed appropriately.
- 7.3 Members noted that all Performance and Appraisals have been concluded, YoY comparisons show an increase in the number of staff who have been awarded 'Exceeds'.
- 7.4 The DoBP reported that the PCS pay claim had been accepted following the ballot and pay award letters have been issued to all staff. SMT will start preparing for forthcoming pay negotiations in next years' budget.
- 7.5 Members had a free and frank discussion regarding the reasons for so many leavers in Quarter. It was agreed this would be monitored and considered within the Workforce and Succession Plan by SMT.
- 7.6 Members also noted the other key HR activities for Quarter 2 and thanked the DoBP for input to the paper presented.

8. Risk Register Summary

- 8.1 The DoBP spoke to the paper presented and advised that a full review of the Risk Register will be carried out when the 4year Strategy has been finalised.
- 8.2 The DoBP and CEO advised the following update to current Risks;
 - 8.2.1 Risk 2 minor changes to mitigation to reflect the publication of poll data, and new SGvt Working Party has now been set up.
 - 8.2.2 Risk 3 minor changes to mitigation in adding new QA approaches.
 - 8.2.3 Risk 4 minor changes to mitigation.
 - 8.2.4 Risk 7 minor changes to mitigation due to rolling out new IT (servers and software).
 - 8.2.5 Risk 8 mitigations have proved effective in tackling WIP which is down.
 - 8.2.6 Risk 9 minor changes to mitigation in drafting a Workforce and Succession Plan.
 - 8.2.7 Risk 10 minor changes to mitigation noting the current position.
 - 8.2.8 Risk 12 minor changes to mitigation noting finalisation of File Manager roll out with CAS following testing.
- 8.3 Members sought clarification regarding IT back-up storage and the CEO confirmed this was held off-site by our IT provider, NVT.
- 8.4 Members also had a free and frank discussion on reducing costs relating to case appeals. The CEO advised that other options are being explored by SMT. It was also suggested that costs were broken down within the Risk Register. The DoBP agreed this could be done going forward.

Action	Owner	Due Date
Legal case related costs to be broken down separately within Board reporting (either in FMR or the appeals paper)	DoBP	By 3 December 2019

10.55am DoBP left the meeting and after a comfort break 11.00am DoPP joined the meeting

9. Draft Annual Report 2018-19

- 9.1 The DoPP spoke to the paper presented and sought approval from Members to the draft Annual Report.
- 9.2 Members suggested further proofing be done to ensure that consistent terminology is used throughout the report. It was agreed that Members would forward specific typographical changes be sent to the DoPP for inclusion. Members also agreed that the CEO should include reference to the earlier discussion points raised today.
- 9.3 References should also include Commercial Attorneys and all figures should be double-checked and cross-referenced throughout the report too.
- 9.4 Members discussed the Communications Strategy and it was agreed this would be brought to the next Board meeting.

Action	Owner	Due Date
Revised and updated Comms Strategy to be brought to the next Board Meeting.	DoPP	By 3 December 2019

- 9.5 It was also agreed that the final version would be circulated to Members by email.
- 9.6 Members also noted that an Annual Review would also be produced.

10. Q1 2019/20 Operational Plan Update

- 10.1 The DoPP spoke to the paper presented and Members noted that all projects were currently in line with targets (green), with none showing as amber or red.
- 10.2 Members sought further clarification on the review of communication approaches and it was agreed that consideration be given to how accessible we are to all service users. Members noted that the equality statement would be first to be reviewed and it was agreed this will be updated and brought to a future Board Meeting.

Action	Owner	Due Date
A revised and updated Equality Statement to be brought to the next Board Meeting.	DoPP	By 3 December 2019

11.10am DoPP left the meeting

11. Key Issues

- 11.1 The CEO spoke to the paper presented and it was agreed that all items would be taken as read, with additional updates provided on specific matters.
- 11.2 Fit for the Future /Scottish Government (SGvt) Working Party – Members noted the current position.

11.14am DoR joined the meeting

- 11.3 Joint work with LSS and FoA on interim improvements to the complaints system – Members noted the current position.
- 11.4 LSS /Master Policy – the CEO advised that there was a meeting later today and a further update will follow at the next meeting.
- 11.5 ABS – the CEO advised that the LSS have paid the Approved Regulator Levy.
- 11.6 Following discussion it was agreed that the CEO would share information with the Consumer Panel Chair.

Action	Owner	Due Date
CEO to circulate information to the Consumer Panel Chair.	CEO	ASAP

12. Q1 2019/20 Long Term Trends and Management Information to 30 September 2019

- 12.1 The DoR spoke to the paper presented and advised that incoming case trend is up YoY, WIP has also improved again on last month, though JT has increased slightly, as has the unallocated cases, which have also increased.
- 12.2 Members noted the targets set for the CEO, who has confirmed they are on track for year-end results.
- 12.3 Members discussed the assessment of Key Performance tracked against year-end target. For example, Incoming – goal 90% vs DC month actual 79%, showing as green, Members disagreed and suggested this should be amber not green. Members also suggested an additional column be added to also show the month end position, as well as the year-end assessment. The CEO agreed this could be added.

Action	Owner	Due Date
CEO to include additional column to show month assessment as well as year-end assessment.	CEO	By 3 December 2019

- 12.4 The DoR confirmed that the productivity JT per person also included leavers.
- 12.5 Management Information to 30 September 2019 – Members noted the paper presented.
- 12.6 The Chair thanked the CEO and DoR for their explanation to the papers presented.

13. Q1 2019/20 Customer Feedback

- 13.1 The CEO spoke to the paper presented.
- 13.2 Members discussed and noted the customer feedback paper. The Consumer Panel Chair suggested that feedback should be gathered at each of the different stages of the processes. Members also suggested that communications should be more proactive to particular audiences and the need to think wider on this issue.
- 13.3 The Consumer Panel Chair enquired whether a PoA or Guardian can make a complaint on behalf of another party. The CEO confirmed this was the case and it could be classified as a 3rd party complaint depending on the circumstances and issues of the complaint. The Consumer Panel Chair requested that this information be made clear on the website. The Chair requested that this be included in the Communications Strategy work. The Consumer Panel Chair also suggested building links with the Consumer Panel work of 3rd party, so they can make complaints on behalf of their clients.
- 13.4 The Chair enquired if the response rates were comparative YoY, the CEO agreed to review the figures and include an update in the next presentation of figures.

Action	Owner	Due Date
CEO to compare YoY response rates in the next presentation of figures to the Board.	CEO	Q2

14. Consumer Panel Update

- 14.1 The Consumer Panel Chair acknowledged the departure of the previous Consumer Panel Chair, Carol Brennan, and advised their main focus is on recruiting new Panel Members. Though they found it difficult to recruit from 3rd sector organisations, however they now have a representative from YoungScot and they would like a representative from the Prison sector. They do acknowledge the high turnover of 3rd sector organisations and they are still working on the Consumer Principles. They have also written to SGvt regarding the lack of a consumer voice on the Working Group and they have also responded to the Consumer Scotland Bill, as have most of the organisations represented on the Consumer Panel.
- 14.2 The Chair enquired if the Consumer Panel felt supported by the SLCC. The Consumer Panel Chair confirmed they were, in particular, during the recent recruitment of additional panel members.
- 14.3 The Chair thanked the Consumer Panel Chair for input and update.

15. Appeals Update

- 15.1 Members noted the paper presented.

- 15.2 The CEO updated Members on the current situation on the Judicial Review case and that it is anticipated that no decision will be received until late December/early January.
- 15.3 Members thanked the CEO and DoR for their update on current Appeals.

16. Quality Management Framework

- 16.1 The CEO reported that SMT have updated the Quality Framework following additional feedback from Members. The AC Chair advised that this has also been discussed in detail at the last AC meeting and the AC asked that this be tabled at the Board for further discussion.
- 16.2 Following a free and frank discussion it was agreed that as the next AC meeting was not till January, the Chair requested that an update be brought to the next Board meeting in December.
- 16.3 The CEO sought clarification on the type of matrix/RAG the Board were seeking to evaluate and review. Members are keen for quality to improve without impacting on JT. It was agreed a more measured standard, along with scoring would be a good starting point, with refinements being made as the process progresses.

Action	Owner	Due Date
SMT to review the Quality Standards Framework process and bring back to update the Board at the next meeting.	CEO	By 3 December 2019

17. Strategy Workshop Outcome

- 17.1 The CEO advised the output from this session has been shared with Members. Members also noted the date of the next Workshop Session.

18. Update from Audit Committee

- 18.1 The AC Chair advised Members that an allegation had been made by an ex-employee. The individual was asked to provide further information or evidence, but none was provided. An internal review was carried out, overseen by an AC Member. The results were reported to the Audit Committee, with the internal and external auditors present at the meeting. The conclusion of the review found no evidence to support the allegation.
- 18.2 The AC Chair also reported on the IA Plan to 2021 on Strategic Planning and IT Hardware Refresh. The IT data usage analysis did not highlight any particular area of trends. The AC also reviewed the Terms of Reference (ToR) document and will invite the Chair annually to the AC, noting the next meeting is January.
- 18.3 The AC reviewed the extract of the Whistleblowing Policy, which was updated with new roles.

19. DC and RDC Scheduling

- 19.1 The DoR spoke to the paper presented and asked Members whether they would consider additional DC and RDC dates. The DoR advised that going forward in 2020 RDCs will continue on a schedule of every 2weeks, with DCs being on average two per month. It was agreed the Secretariat would draft and circulate the additional DC and RDC dates for 2019 and compile the 2020 schedule also.

Action	Owner	Due Date
Secretariat to draft RDC and DC schedule for additional dates in 2019, also draft and plan schedule for 2020. Members to respond ASAP.	Secretariat	By 26 October 2019

12.40pm DoR left the meeting

- 19.2 Members raised concern about the consistency of IT while working remotely. The CEO advised that testing is being carried out later this week on the new remote log-in provider, One Identity. Once this is complete, it will be rolled out to Members and staff when fully tested. Members raised their concern about the NVT response time to call logs. It was agreed the CEO would raise issues the DoBP.

Action	Owner	Due Date
CEO to raise ongoing IT remote access issues and response times from NVT with DoBP.	CEO	ASAP

19.3 Members also raised the number of cases being considered per RDC and DC, following discussion, it was agreed they would be limited to 5 cases per RDC and DC.

20. Update from Remuneration Committee

20.1 It was reported that the only matter discussed was the Annual Pay deal, which was recently approved.

20.2 The Chair requested that he meet with Rem Com Members prior to their next meeting.

Action	Owner	Due Date
Secretariat to arrange a private session between the Chair and Rem Com Members.	Secretariat	By 14 November 2019

21. Board Actions Register

21.1 Members noted the ongoing Actions and agreed that completed actions be removed.

22. Minutes of Previous Meetings

22.1 The Minute of the Board Meeting from 30 July 2019 was approved as read.

22.2 The Notes of the Board Conference Call from 9 September 2019 was approved as read.

23. Chair's Report

23.1 The Chair reported that there had been one external meeting CMA Conference. Members noted the verbal update from the Chair.

24. Dates for 2020 Meetings

24.1 Members noted the proposed dates presented, and following discussion it was suggested by the Chair as a trial the March meetings be held over one day, on Tuesday 24 March 2020, with Board Development Session 10am-12noon, lunch and Board Meeting 1-4pm.

24.2 The Chair also requested that the Board Meeting on **3 December 2019 start at 9am**, Members agreed.

25. Date of Next Meetings

25.1 Members noted the dates of the next meetings as:

- Board Op Plan Workshop 10am on Monday 11 November 2019
- Board Development Session will commence at **1.30pm** on Monday 2 December 2019
- Board Meeting will take place at **9am** on Tuesday 3 December 2019

26. AOCB

26.1 Letter from Lord President's Office – the CEO circulated a copy letter received from the LP Office in respect of the LSS Practice Rules (Amendment Rules) No.2, the contents of which were noted by Members.

26.2 CEOs Annual Salary Review – the Chair confirmed the Private Member only session paper and the DoBP to prepare the CEO's Annual Salary Review letter as per proposal.

27. Chief Executive's Report

27.1 The Board noted the paper presented and the CEO gave a brief overview of the recent meetings.

28. Review of the Meeting

28.1 The Chair thanked Members for their input into both meetings and in particular, thanks were given to Observer, Shaben Bagum. Ms Bagum also extended her thanks for being allowed to observe the meeting which she found very interesting.

28.2 A private Member only session followed to conclude the meeting.

28.3 With no other business the meeting concluded.

12.55pm Board Meeting ends