

**MINUTE OF A MEETING OF THE MEMBERS OF THE SCOTTISH LEGAL COMPLAINTS
COMMISSION: 9.00AM TUESDAY 3rd DECEMBER 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

Apologies:

Vicky Crichton (DoPP)

In attendance:

Neil Stevenson (CEO) (Items 1-23)
Caroline Robertson (DoR) (Items 1-6)
[REDACTED] (FacO) (Item 12)

[REDACTED] Secretariat – minutes) (Items 1-22)
Louise Burnett (DoBP) (Items 1-12)

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
SCI – Specialist Case Investigator

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
FacO – Facilities Officer

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 CEO, DoBP, DoR and Secretariat joining the meeting at 9.15am.

1. Welcome

1.1 The Chair welcomed everyone to the Board meeting and thanked everyone for their input into the private member session, the Board Development Session and for the early start.

2. Apologies

2.1 Noted from DoPP, Vicky Crichton.

3. Declaration of Interests

3.1 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. **Audit Visit – Strategic Planning (Phase 1) - IA**

- 4.1 The CEO spoke to the paper presented. Members noted the IA was carrying out an Audit to review the robustness of the development of the new strategy, budget and operating plan. Members also noted the SMT responses to the initial suggested areas for further development by the SMT prior to finalisation of the plan. This included actions already reflected in the Boards papers, changes which would be made prior to consultation, and changes which could be considered post consultation as the strategy and budget were finalised.
- 4.2 The AC Chair acknowledged that this strengthens planning as SMT gained external insight and scrutiny throughout the process.
- 4.3 Paper noted and accepted the SMT responses to the initial meeting with IA.

5. **Draft Budget and Levies – 2020-2021**

- 5.1 The Chair introduced the item by recapping the conversation from the November planning workshop, *noting that the Board had informally discussed:*

- a four year projection of case volumes, income, expenditure and reserves
- the assumptions underlying these projections, and the impacts on the organisation and the levy
- the various sources of information used to inform the assumptions including the Scottish Government five-year financial forecast, data from the Law Society on long term trend in practitioners numbers, the annual audits of the SLCC and issues raised there, etc.
- specific questions and challenge on the assumption that board members wished to raise
- the impact of various budget scenarios on various levy scenarios, and the impacts for different sectors of the profession
- the aims, themes, and work areas within a draft 2020 to 2024 strategy
- the detail of the budget for the year 2020 to 2021, and the four indicative models presented
- the detailed operating plan for 2020 to 2021.

The Chair noted that at the end of extensive discussion it was agreed that the executive would return in December with:

- A budget model based on an across-the-board percentage for all practitioner groups, within the parameters discussed informally by the Board in the workshop
- An updated draft strategy – taking account of the comments on various matters including quality, fairness, the aspirational side of people development, risk assessment around digital, more detail work on prevention and root cause, and the other detailed issues discussed.
- An updated draft operating plan.

- 5.2 The DoBP and CEO spoke to the paper presented.

- 5.3 Draft Levies - The DoBP advised that the LSS are predicting a drop in the initial number of practising certificates being issued and this could have an impact on the General Levy income received from the LSS. Members noted that this was the first time the LSS have predicted a decrease in numbers. Members had a free and frank discussion regarding the impact that a decrease in predicted numbers from the LSS would have on the Levy income, and agreed that assumptions will need to be taken into consideration when setting the Levy for 2020-21.

- 5.4 Members had a further free and frank discussion on setting of the budget and Members agreed with SMT that this should be based on the 3.5% model presented. This is on the basis of the budget numbers presented by SMT, and also based on the LSS predicting the decrease number of practising certificates, with any surplus income received being included within reserves. The CEO reiterated that these figures could be reviewed post consultation.

- 5.5 Board agreed:
- General Levy would be set at £492
 - Complaint Levy would be set at £5,000
 - Approved Regulator (AR) Fee set at £3,000
 - AR Complaint Levy would be set at £8,000
 - Licensed Provider (LP) Fee set at £1,000
- 5.6 The Board also approved the list of suggested discounts from the General Levy for different practitioner groups.
- 5.7 The CEO reminded Members of the timescale and process, in that, the budget must be out for consultation by the end of January 2020, with responses received being published by end of March 2020, and the final budget must be laid before Scottish Parliament in April 2020.
- 5.8 Cost per Case draft model - During discussions, it was agreed that SMT would review the draft cost per case model analysis and provide further update at the January Board.

Action	Owner	Due Date
SMT to review draft cost per case model, providing an update at the January Board Meeting.	CEO/DoBP	By 28 January 2020

- 5.9 Members suggested that SMT review the suggested project activities and ensure that these are aligned against strategic aims and objectives. Following discussion it was agreed that SMT would review these projects and link into other areas of expertise, utilise Members' skills and experience, for example.
- 5.10 Members sought assurance that the Communication and Stakeholder Engagement Strategy would be reviewed at the January Board Meeting, the CEO confirmed it would.
- 5.11 Draft Strategy 2020-24 – The CEO spoke to the paper presented. Members suggested some typographical and stylistic changes to the draft document, in particular to address the language used, as it was felt it included too much jargon and corporate speak. It was agreed the number of points made by Members would be reviewed by SMT. Also the CEO would circulate to Members prior to the January Board to allow Members to feedback prior to this meeting.

Action	Owner	Due Date
CEO and SMT to finalise the drafting of the draft Budget and Operating Plan prior to the January Board and circulate to Members by email in advance.	CEO/SMT	By 10 January 2020

- 5.12 Draft Operating Plan 2020-21 - Members noted as read with SMT reviewing and adding the suggested typographical changes.

6. Management Information to 30 November 2019

- 6.1 The DoR spoke to the paper presented and advised that WIP has increased on last month, though JT has reduced slightly.
- 6.2 The DoR updated Members on the current situation of the first Sct17 case which is being raised at the CoS. Members discussed the difficulties in obtaining practitioner files and the cost implications of raising this Sct17 with the CoS.
- 6.3 Members sought clarification on whether SMT were reviewing recruitment strategies in light of the impact that recruitment and retention was having on WIP. Both the DoBP and DoR advised they were. Members also enquired whether all leavers received an exit interview; the DoR advised they did with their line manager. Members suggested this should be carried out by HR. The DoBP advised this would be the remit of the new HR Advisor who starts on 6 January 2020. The CEO acknowledges recruitment and retention is an issue, SMT are looking at different options for the next set of recruitments, which will commence January.
- 6.4 The Chair sought clarification on the decrease in number of Eligibility cases being considered by Members. It was agreed the DoR would review the figures and update Members.

Action	Owner	Due Date
DoR to review number of Eligibility cases being considered by Members.	DoR/SMT	By 28 January 2020

- 6.5 Members raised concern about the increase in timescale relating to the initial processing of new complaint forms. The DoR explained this was due to a staff vacancy which was not filled at the last recruitment. The DoBP expanded further. The DoR reiterated a recovery plan was in place to address this increase in timescale and monitoring is ongoing.
- 6.6 Members sought an update on the 42 linked cases. It was reported these have all progressed from Eligibility to Investigation stage. It was agreed that as each of these cases had a number of issues, which are broadly similar in each case, one case would be drafted by the SCI, with a view to issuing an Investigation Report prior to Christmas, if this is not accepted by either party, then all 42 cases will go to DC for determination.
- 6.7 The Chair thanked the CEO, DoR and DoBP for their explanation to the papers presented.

10.50am DoR left the meeting and after a comfort break 10.55am meeting resumed

7. Financial Management Report to 31 October 2019

- 7.1 The DoBP spoke to the papers presented and Members noted the slightly different layout, now showing variances to date. The DoBP advised that it is proposed that variances of over £5k or more will be shown going forward.
- 7.2 Members noted the Income is currently £136k ahead of budget and Expenditure is overspent by £9k.
- 7.3 Members noted that a full half-year of financial figures will be presented to the January Board.
- 7.4 The Chair thanked the DoBP for the update and explanation to the figures presented.

8. Update from Remuneration Committee

- 8.1 The DoBP advised that Niki Maclean, Director at SPSO had been appointed Chair of the RC. As previously advised, the new HR Advisor (who starts on 6th January) will support this Committee going forward.
- 8.2 The RC will commence preparation on the new pay award, reviewing the output from the staff survey which closes later this week and will be reviewing the current Member Expenses Policy, along with self-assessment tools and work plan for the coming year.
- 8.3 Members had a free and frank discussion on the expenses policy and noted the RC has been tasked to bring this back to Board for further discussion.
- 8.4 The Chair also requested a written paper to be presented from RC to the Board. This was agreed by DoBP and CEO.

Action	Owner	Due Date
RC to provide a short written update to future Board Meetings	DoBP/CEO	Ongoing

9. Risk Register Summary

- 9.1 The DoBP spoke to the paper presented and advised that a full review of the Risk Register will be carried out for January Board Meeting.
- 9.2 Following discussion Members suggested that the DoBP and CEO would review/update the following Risks:
- 9.2.1 Risk 1 to be reviewed in light of budget consultation.
- 9.2.2 Risk 7 due to rolling out new IT (servers and software).
- 9.2.3 Risk 9 due to current issues with regards to recruitment and retention of staff.

Action	Owner	Due Date
Risk Register to be reviewed and brought back to January Board Meeting (via the January Audit Committee meeting).	DoBP	By 28 January 2020

10. Scheme of Delegation Review

- 10.1 The DoBP spoke to the paper presented and advised that the changes were within:
Finance Sections – removal of reference to the Finance & Corporate Services Manger role, as this post is not in the current structure, with the DoBP being substituted as the authorised person.
Complaints Section – 1) removal of reference to the Head of Strategic Insight role, as this post is not in the current structure, with the DoPP being substituted as the authorised person. 2) the incorporation of a new decision maker in Section 6 Complaints – 24(1) to Oversight Manager from HoSI.
Conduct Complaints – being raised in the SLCC’s name, has been updated to reflect this will be done by the CEO as Accountable Officer (and noting that this may change again shortly). No other changes had been made.
- 10.2 Members sought clarification on the authorisation process, in that, a purchase order raiser was never the same person as the authoriser and the DoBP confirmed this was correct.
- 10.3 Members confirmed their approval of the proposed minor changes.

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 – The CEO advised that SGvt have presented alternative models to the Robertson Review for consideration by the Working Party and they have now invited in Consumer Groups to the meetings. A consultation is being discussed for the spring or summer, but slippage could be possible. Members noted the current position.
- 11.3 LSS / Master Policy – The CEO appraised Members of the current situation and developments since the letter of 22nd August. There had been various emails from the Society, and informal discussion. Reminders that we were looking for a formal response were issued, including in October and November (the latter flagging the matter was due to be discussed by our Board). There is still no formal response, and the last reminder (18th Nov) has not been acknowledged., Members were keen to understand how the LSS Regulatory Committee and Council made the decision on Master Policy / Guarantee Fund refunding back to their members and to ensure the public interest and alternatives had been considered. The Board authorised the CEO to issue formal requests and recommendations under s39 of the 2007 Act. The Board noted the CEO would check informally whether any progress by the Society this week would affect the terms of the notice before issuing it.

Action	Owner	Due Date
CEO to issue s39 request for information and consideration by the Council and Regulatory Committee, and to note concern at the lack of a formal response.	CEO	Immediate

11.25am FacO joined the meeting

12. Annual Health & Safety Report Update

- 12.1 The FacO spoke to the paper presented and it was agreed that all items would be taken as read, with additional updates provided on items.
- 12.2 Office Refurbishment and IT– Members noted the current works and the planned changes to IT, and the need to engage / educate all staff in maintaining H&S whilst working more in a more agile way in the future. It was noted that due to ongoing refurbishment works this has resulted in an increase in contractors being in the office, this should reduce in the coming weeks.
- 12.3 Members suggested that as the organisation moves towards a more agile way of working members should also be considered within this process, in particular, the move to a more IT based way of working impacts on how they work, for example more time at a computer screen trying to view multiple documents. The DoBP agreed to take Members into consideration.

- 12.4 Members sought clarification on lone working survey and how does H&S apply in the home environment. The FacO advised that staff have to work remotely in consultation with the relevant guidance policies. Members also enquired how often staff worked from home in any given week. The DoBP advised it was one day a week, with some staff having exceptional circumstances to work more in any given week.
- 12.5 Members suggested a typographical change to the H&S Policy Statement.
- 12.6 The Chair thanked the FacO and DoBP for their explanation to the papers presented.

11.30am DoBP and FacO left the meeting

11. Key Issues (continued)

- 11.4 Equality and Diversity Op Plan Project – Members are keen to receive more information.
- 11.5 Effective Writing Training – Members were also keen to see how this links between the Ops and Training Plans. The CEO confirmed this training was on the current plan (2019-20, as budgeted for in Jan-April 2019). The wider training discussed in the budget paper was for the 2020-21 budgets and training plan year. We are trialling two sessions before rolling out to all staff. Members enquired if this training feeds into the template work. The CEO advised that for some time templates has been updated as and when required, and this work continued. However, within the 2020-21 operating plan there was a project to review all templates at once for consistency, style and to evaluate how they work overall. This was a larger piece of work, only done every few years. Members noting any immediate issues should always raise these and they can be actioned (as had recently happened following a DC).
- 11.6 Quality Assurance – The CEO advised that a conference call was being scheduled, with comments received from AC. The AC Chair suggested that SMT incorporate the AC comments and bring back a draft to both the January meetings of AC and Board. Members agreed with this approach.

Action	Owner	Due Date
CEO to incorporate AC member’s comments and review the draft with SMT, for the revised draft to be discussed at both the AC and Board in January.	CEO/SMT	By 14 January 2020 (AC) & 28 January 2020 (Board)

13. Board Actions Register

- 13.1 Members noted the ongoing Actions and it was agreed that the CEO/SMT would circulate an update on all outstanding actions post meeting and all completed actions be removed.

14. Minutes of Previous Meetings

- 14.1 The Minute of the Board Meeting from 22 October 2019 was approved as read.

15. Chair’s Report

- 15.1 The Chair reported that there had been one external meeting with Dame Elish Angiolini, along with the CEO. This was in relation to the Independent review of Police complaints handling, investigations and misconduct issues. Members noted the verbal update from the Chair.

16. Date of Next Meetings

- 16.1 Members noted the dates of the next meetings as:
 - Board Development Session will commence at **2pm** on Monday 27 January 2020
 - Board Meeting will take place at **10am** on Tuesday 28 January 2020

17. AOCB

- 17.1 None.

18. Chief Executive’s Report

- 18.1 The Board noted the paper presented.

19. Review of the Meeting

- 19.1 A private Member only session followed to conclude the meeting.
- 19.2 With no other business the meeting concluded.

11.40am CEO and Secretariat left the meeting

11.55am Board Meeting ends