

NOTE OF BOARD CONFERENCE CALL ON MONDAY 14TH SEPTEMBER 2020 AT 9.00AM
VIA: ZOOM due to current lockdown situation

PRESENT:

LAY:

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

LAWYER:

Amanda Pringle
Denise Loney
Kay Springham

Apologies:

Sarah McLuckie

In attendance:

Neil Stevenson (CEO)
Caroline Robertson (DoR)
Vicky Crichton (DoPP)

[REDACTED] (Secretariat – notes)
Louise Burnett (DoBP) (via telephone)

Abbreviations used:

WIP – Work in Progress
LSS – Law Society of Scotland
CI – Case Investigator
DoR – Director of Resolution
DoBP – Director of Business Performance
YTD – year to date

DC – Determination Committee
AC – Audit Committee
SGvt – Scottish Government
DoPP – Director of Public Policy
RC – Remuneration Committee

Meeting commenced with a private member only session, following which the SMT and Secretariat joined the meeting at 9.15am.

Apologies have been noted by Sarah McLuckie.

The Chair welcomed everyone to the Conference Call, and advised that during the private session, Members had a brief discussion around:

- 1 Legal Chairs Appeal paper and requested that the CEO meet with the Legal Chairs around the CEO/SMT Appeal paper. It was suggested that they discuss the best model from both papers and present a collaborative joint paper to the October Board Meeting.

Action: CEO to set up a meeting with Legal Chairs. Post meeting note this has been arranged for 2/10/20.

- 2 Alternative Consultation Comms paper and requested that the DoPP moved ahead with this.

Action: DoPP to progress ahead with alternative consultation exercise with stakeholders.

Papers for the meeting

The papers for the meeting were all noted by Members. The executive asked if there were any particular issues in need of immediate discussion. In the absence of a need for discussion, it was agreed the meeting would focus on the papers around the impact of Covid-19 and how this affects future planning. All other issues could be picked up in October's papers if required.

Impact of Covid-19 on the SLCC and the Profession

The Chair sought an update from SMT on the impact of Covid-19 following circulation of the MHA (Henderson Loggie) Legal Sector Covid-19 Survey Report, summer 2020.

Highlights from this Report was that the profession were:

- 17% of the firms were busy

- 64% of the firms felt Covid-19 had a low to moderate impact on their business
- 87% of the firms have furloughed at least one member of staff utilising the Job Retention Scheme, but 13% have not furloughed any staff at all.
- 31% of the firms have seen a fee income decrease of between 20-30% and in some cases those businesses with a heavy bias towards property and conveyancing have stopped, but 9% saw a rise in fee income of between 5-30%.

Members agreed that Covid-19 will have a significant impact on the sector overall.

The Chair noted that they, as a Board, were now required to have a wider discussion on how Covid-19 will impact on the proposed 4-year strategy and 1-year business plan. In particular, Members and SMT were asked to consider and review the impact this was having on: incoming cases; income and expenditure; staffing and whether further discussions were required on IT and property requirements; they also needed to be mindful of the outcome of the Robertson Review. Members were also asked to consider whether there was a need to reconsider the strategic direction of the organisation and the way forward.

The Chair sought clarification on whether there was an overall dip in incoming cases or whether they were showing a slow rising trend. The CEO confirmed there had been a significant dip in incoming cases, but numbers appeared to be slowly increasing from that dip since June. Forecasts were being discussed regularly, but at the moment the 'best guess' prediction of the SMT was a gradual increase would continue perhaps showing a return to numbers similarly received 1-2years ago by yearend, previously reported at approx. 1,100/1,200 incoming. A spike of 'lockdown issues' was still possible, but there is no data to suggest that yet. As property and civil court business returns a gradual return to incoming rate of 1-2years ago seems more likely.

The Chair also sought an update on the predicted financial outturn position. The DoBP advised it was anticipated that £256k would be put back into reserves and time has been set aside to review the breakdowns for 2020-21 and projected 2021-22 budget later this week. It was noted that the reserves are anticipated to be £659k, this is still one month below the anticipated reserves policy.

The Chair sought an update from the DoR on the wellbeing of staff. The DoR advised that SMT think overall it is good, with line managers having regular contact calls with staff.

The Chair wondered if staff continually WFH was impacting on productivity. The DoR advised that figures reported up to end of July were as expected. However, this Quarter it is showing that it is slower and by drilling into this the key reasons are likely to be due to staff taking more holidays at this time (having delayed holiday earlier in the year) and the impact of lower staff availability/reduced targets (Covid-19 adjustments for caring responsibilities) in Apr/May/June now 'washing' through. There is also an increase in the number of digital files been read by staff and these are difficult to read on their laptops. A workshop on options to improve digital working was taking place this week to assess what staff needed (hardware/software) and one to ones were taking place with all staff on productivity and any issues they thought may be impacting.

The Chair also enquired whether the reduction in FTE was having any impact on overall KPIs and workflow. The DoR advised that it wasn't yet and the earlier exercise of multi-skilling of staff has helped with the moving of staff between Eligibility and Investigation. Members suggested that management information figures are based on 30% less on actual production, resulting in a massive gap. The DoR again noted that at this point we think it is more likely to be down to staff taking holidays (which is displaced, rather than lost production) and past reductions for caring (which all ended on 1st September when the schools went back) is having an impact. The DoR agrees with points raised by Members and reiterated that the issue of annual leave was exceptional this year, and management continues to address resource needs at different stages by moving staff around in order to increase productivity. The Chair enquired whether there was a risk of creating another backlog. However, the DoR advised that as of Friday 1st September, Eligibility cases were being allocated almost immediately, Mediation was now back to normal levels, and

there were only 20 Investigation cases waiting to be allocated. The CEO reiterated that as issues start to interface, SMT/IMT are moving resources around to manage productivity. We are also not back filling departed staff until we see the long-term impact of Covid-19 on incoming numbers, therefore WIP may fluctuate this year, but the opposite risk is over-resourcing the organisation.

The Chair sought clarification on how the IMT were managing issues of low productivity, particularly if the number of incoming cases remained low, this along with, the ongoing issues of productivity across the board. The DoR advised IMT meet weekly, issues are discussed and resources are adjusted to suit demand within the process. The DoR reiterated the multi-skilling staff between Eligibility and Investigation has assisted with the moving staff between processes, ie from Eligibility to Mediation and Investigation. Now that Mediation is back on track, CIs have been moved from Eligibility and Determination to Investigation to assist with this stage of the process.

Members had a free and frank discussion as to whether the targets which were originally set for an 'office' model way of working and not based on a Covid-19 WFH model and whether these should be adjusted to reflect staff WFH. Members agreed that this required further exploration and discussion, along with the need to manage staff WFH more efficiently. Members also recognised the challenges that staff face whilst WFH, ie reviewing files digitally on a laptop is very difficult and time consuming. Members acknowledged that additional IT support may be required for staff to meet current targets. Members also agreed that staffs' safety and well-being was paramount whilst they continue to WFH.

Members discussed the feasibility of reviewing targets, providing more IT support to allow managers to manage differently, along with reviewing the implications this has on 2020/21 budget, as it was apparent that there will be a requirement for staff to continue to WFH long term. It was agreed that Members would discuss this strategy as a matter of urgency and this would be the main focus of the October Board Development Session.

The CEO agreed that this would be a valuable exercise, as a number of factors need to be taken into consideration. It was acknowledged to date, staff have been provided with the means to purchase additional keyboards and mouse to facilitate WFH. However, more tailored solutions will be required for staff to continue to WFH long term, ie some may need dual-screens, chairs, desk etc. The CEO agreed SMT need to give due consideration as to whether adjusting targets was the right option, but any reduction automatically increases the cost base of a case. There was also a risk of 'plucking a target out the air', as there is insufficient data to reliably calculate a new 'WFH' productivity target. If targets are adjusted, they are also set for a specific time, ie 6mths – 1yr, which is important if we are to robustly manage against them. Frequent variation will make it harder to enforce and so can be counterproductive.

The Chair sought clarification from the DoPP as to an expected timescale on the output from the planned additional consultation process being available in order for it to be discussed with the Board. The DoPP agreed, if the consultation was issued later this week, with a deadline for responses being set, it should be realistic to have a paper for discussion at the next Board Meeting. The Chair reiterated that for the October Board Development Session, Members do not want a paper for approval, they require a paper for discussion. This was agreed by SMT.

Action: October Board Development Session to discuss, alternative consultation exercise with stakeholders, KPI targets, budget implications of revised targets.

9.52am Member, A Pringle left the meeting due to IT issues.

The DoBP requested that Members please return their Remuneration letters so that they can be sent on to the Auditors for the end of year Accounts.

The CEO reported they were awaiting further information from SGvt on the limited changes to the Act, but SGvt have acknowledged this needs moved forward.

The DoR enquired whether Members wished to discuss the DC QA System which was circulated. The Chair agreed this would be discussed at the October Board Meeting.

Action: DoR to ensure DC QA System added to October Board Agenda for discussion.

The Chair updated Members on his recent annual 1-1 meeting with SGvt Director of Justice, N Rennick.

Members sought clarification on meetings with the Legal Panel and in particular, the issue around gender instruction. The CEO advised that at the time of writing this paper, they had not met with the last of the third Legal Panel firms. This had now taken place and all three firms have agreed to be proactive about the gender balance in the instructing of counsel. Following discussion it was agreed that the CEO would also meet with the Legal Chairs.

Action: CEO to arrange a meeting of Legal Chairs. Post meeting note, date agreed for 10.30am on 2/10/20.

The Chair thanked everyone for their time and input on to the Conference Call and reiterated the October Board Development Session would focus on wider discussions on the strategic way forward. Also, the CEO should set up a meeting with the Legal Chairs and the DoPP should move forward with the consultation so that information would be available for this meeting.

Call ended 10.02am