MINUTE OF A MEETING OF THE MEMBERS OF THE SCOTTISH LEGAL COMPLAINTS COMMISSION: 10.00AM TUESDAY 28th JULY 2020
VIA: ZOOM due to current lockdown situation

PRESENT:

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

LAWYER:
Denise Loney
Amanda Pringle
Kay Springham

Apologies:
Sarah McLuckie

In attendance:
Neil Stevenson (CEO) (Items 1-25)
Caroline Robertson (DoR) (Items 1-10)
Vicky Crichton (DoPP) (Items 1-6, 18)
Louise Burnett (DoBP) (Items 1-25)

Abbreviations used:
F&CSM – Finance and Corporate Services Manager
WIP – Work in Progress
FMR – Financial Management Report
AC – Audit Committee
CI – Case Investigator
RPO – Relevant Professional Organisation
IMT – Investigations Management Team
JT – Journey Time
DoR – Director of Resolution
DoBP – Director of Business Performance
RC – Remuneration Committee
WFH – work from home

1. Welcome
1.1 The Chair welcomed everyone to the Board meeting and thanked everyone for their input yesterday’s Board Development Session.
1.2 Members noted the continued impact of coronavirus and lockdown on staff, members of the profession and clients, and the various pressures this was creating.

2. Apologies
2.1 The Chair noted apologies from Member, Sarah McLuckie.

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. Key Issues
4.1 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.
4.2 Coronavirus – it was agreed this would be considered later in the meeting under a separate Agenda item.
4.3 **Fit for the Future /Scottish Government (SGvt) Working Party** – Members noted the current position.

4.4 **Law Society / Master Policy (Locktons)** – The CEO advised that they had received a positive letter from the LSS which might offer a solution for many of the cases which are currently falling through gaps. The LSS have advised that further discussions are still ongoing with Locktons, however it is hoped that some historic unpaid cases may now receive their redress. It was agreed that a further update would be provided at the next meeting.

4.5 **IT Update** – Members sought clarification on the recent battery back-up issue. The DoBP advised unfortunately this was unavoidable, however the new battery has since been installed and the ongoing technical issues are being closely monitored by SMT and NVT.

4.6 **Communication and Stakeholder Engagement** – Member, E Hutton advised that she had recently joined with staff on one of the Equalities & Vulnerabilities sessions which took place with Richard Hammer, which was very interesting. It was also noted that the DoPP was reviewing the SLCC Equality Statement and that positive progress had been made thus far on the document and on related web content.

4.7 **Legal Chairs – Gender Balance of Advocates** – it was agreed this would be considered later in the meeting under a separate Agenda item.

4.8 **Process Improvement Work (Agile / Sprint)** – Members noted the update provided by the CEO on future projects and the approaches to these being taken.

4.9 **All other updates within the paper were noted by Members.** The Chair thanked the SMT for their updates to the paper presented.

5. **Proposed Approach to 2021/22 Consultation**

5.1 The DoPP spoke to the paper presented and gave a brief overview of how the SMT would like to approach and engage the profession differently with regards to 2021/22 Budget and Operating Plan Consultation process.

5.2 Members sought clarification on how this approach would be executed. The DoPP advised that they envisaged this being through a short consultation document and series of questions, and then carried out using Zoom for drop-in sessions. The DoPP also advised that in making a final decision whether to do this, and in how it was delivered, the timescales for the ongoing project/reform work will need taken into consideration. Members were keen that all parts of the profession were given the opportunity to engage in this process.

5.3 Members also suggested that SMT may wish to try issuing a Questionnaire document, similar to those issued with SGvt Consultations. The DoPP advised questions are asked during the consultation process, but agreed it could be laid out differently to make it clearer to the recipients.

5.4 Members also sought clarification on the cost implications and the CEO advised it would relate more to staff time rather than additional cash expenditure. Using Zoom to engage with the profession was now possible, as familiarity with this type of product has grown during lockdown, and allowed us to do something at low cost which may not have been possible before (when various legal organisations were likely to request SLCC attendance at local ‘faculty’ meetings).

5.5 Members agreed with the draft proposal in principle, however the Chair asked that a full outline of the proposed process and costs presented to the Board at the September Conference Call.

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<th>Action</th>
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<tr>
<td>CEO and DoPP to review proposed Consultation process (and costs) and share with Members at the Board Conf Call in September.</td>
<td>CEO/DoPP</td>
<td>14 September 2020</td>
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6. **Impact of COVID-19 on Business as Usual (BAU) and how the Business is responding**

6.1 The CEO spoke to the paper presented and gave a brief overview of position to date.
6.2 The Chair sought clarification on whether productivity for CIs during Covid-19 was similar to normal output. The DoR advised that there have been some adjustments to productivity for individual CIs and KPIs have been amended to reflect these. These adjustments are made due to childcare etc. The DoR also advised that there had been no dip in overall production due to Covid-19.

6.3 The DoBP advised that whilst there has been an initial cost of setting up Zoom accounts, this has enabled meetings to continue with little or no impact on the business.

6.4 Members sought clarification on whether there was a realignment of an individual’s percentage of output due to their personal circumstances, and wondered what the percentage figure was for this on KPI production. The DoR did not have this available but agreed to circulate it to Members.

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<tr>
<td>DoR to circulate a copy of a CIs percentage output realigned to base rate of KPI output to Members.</td>
<td>CEO/DoR</td>
<td>14 September 2020</td>
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6.5 Members also sought clarification on whether the realignment of productivity with WFH will remain the same. The DoR advised that SMT and IMT were constantly reviewing CI base lines. Members also wondered how staff felt about continuing to WFH. The DoR advised that as would be expected there was a full range of feelings among staff, some would almost still be at the stage of not wanting to leave the house, whilst others were keen to get back to some sort of normality and are working with their Managers on this. A significant number were volunteering to assist with essential tasks in the office. It was noted the current office attendance was on Wednesdays for mail, printing, etc. and also on Fridays for dropping off/picking up files. These visits are managed on a case by case basis.

6.6 Members noted that there had been minimal costs claimed by staff for home working costs, ie keyboards/mouse (max £20 per person). However, it was agreed further discussion would be required for longer term WFH and the impacts this has on staff. It was noted that staff can claim from HMRC direct £6 pwk for WFH tax relief. The CEO also advised it is likely over time that there will be national issues being raised by the TU/PCS. For example, many home contents insurance policies do not allow periods of long time working from home, some broadband contracts do not allow business use. These have not been an issue during the ‘crises’ phase of lockdown, but may come to be discussed in the coming 6 to 18 months.

6.7 The Chair enquired how the Mediators were being engaged during Covid-19. The DoR advised that the Mediators are very engaged in using the Zoom process. Every case at the Mediation stage have been contacted quickly but the difficult and time consuming part of the process is agreeing to a suitable date between parties. However, cases are moving on in the right direction. The Chair enquired if this would impact on the Investigation stage of the process. The DoR confirmed it was, however more resources have been allocated to both Mediation and Investigation stages to resolve this (drawing on resource from the eligibility stage, where incoming numbers had been lower in the first few months of lockdown).

6.8 Members sought clarification on the number of Reporters who were currently on the panel, noting that Reporter use had been stopped lockdown. The DoR confirmed 3. The DoBP advised this equated to an approx. £7k saving in costs to date. Members discussed whether it was feasible to continue the use of Reporters if incoming cases remained lower. It was agreed this would be monitored.

6.9 The Chair thanked CEO and SMT for their explanation to the paper presented.

10.54am DoBP and DoPP left the meeting

7. **Q4 2019/20 Long Term Trends and Management Information to 30 June 2020**

7.1 The DoR spoke to the papers presented and advised the incoming cases for end June was 64, with WIP being 436 for EoY.
The DoR advised that JT continued to reduce. Members were pleased to see the number of backlog cases had again reduced and the DoR confirmed all incoming cases were all new cases waiting for allocation.

Members had a free and frank discussion on the use of linear line data from 2013/14. The CEO confirmed different time ranges could be provided, but as monthly and quarterly variation was high looking at long term trends tended to be more meaningful. At the moment, reporting was set up to show the two years before the current four year strategy, and then the changes during the strategic period.

Members discussed whether the same quality scores should be applied at all stages of the process, ie those being applied at Eligibility and Investigation should also be the same as those applied at DC (which currently had a five point, rather than three point, scale.

The Chair agreed and the CEO confirmed this could be done.

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<td>CEO/DoR to apply quality scoring to all stages of the process.</td>
<td>CEO/DoR</td>
<td>14 September 2020</td>
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The Chair thanked the CEO and DoR for their explanation to the papers presented.

8. Q4 2019/20 Appeals Update

The DoR advised that from Q1 there was a new IMT lead for Appeals, going forward all new appeals will be dealt with by [redacted], with all ongoing appeals being concluded by [redacted] and [redacted]. The DoR also advised that IMT took opportunity to refresh the layout of the appeal paper presented to the Board. Following a free and frank discussion it was agreed that this document should be reviewed for the next Board Meeting in October providing greater narrative detail on each case, and details as to whether it was a ‘party litigant’ case.

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<td>DoR to review the Appeal paper in light of discussions with Members to be presented to the October Board Meeting.</td>
<td>DoR</td>
<td>20 October 2020</td>
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9. Legal Chairs Meeting and Review of Appeals Process

It was noted by the Chair, that the Legal Chairs would also be reviewing the Appeals Process, along with how to manage the reporting of Appeals to Members. The Chair noted that the Legal Chairs would continue with this review, following their private Member only discussion yesterday at the Board Development Session.

During the Legal Chairs initial discussion it was identified that the gender diversity of advocates appointed was imbalanced. Member, K Springham explained that in reviewing the number of appeals publicly reported in 2019/20 that there were 9 Appeals heard and in every case, the SLCC were represented by a male Advocate or Solicitor Advocate. This surprised the Legal Chairs, as it was noted that the SLCC were one of the 1st organisations to sign up to Gender Diversity. It also surprised the Legal Chairs that it would appear that SMT/IMT accept the instruction recommendation provided by the legal advisors, and so also meant that these firms might not be following the Gender Diversity Policy. The CEO confirmed that the SLCC signed up to this approx. 2-3yrs ago and agrees this needs addressed. Members agreed that the SLCC should always be given the option of a female Advocate or Solicitor Advocate and this would be raised with our legal advisors. The CEO agreed this would be monitored and brought back to Board for review next year.

Members thanked the CEO and DoR for their update on current appeals.

11.15am comfort break, meeting resumed at 11.28am

10. Determination Committees 2019-20

The DoR spoke to the paper presented.
10.2 It was noted that the scheduling and cancellation of DCM meetings was also discussed at the Legal Chairs meeting, where it was felt there had been an inconsistent approach to cancellations. Members were concerned about prioritisation and management of cases. Members were also concerned about the number of cases that Legal Chairs were considering overall. The DoR acknowledged that Clerking had tried to predict DCM dates for the whole year, and we agreed with the Board later last year to ‘overbook’ rather than try to add dates at the last minute. This along with, the high percentage of cases being resolved, along with a higher than expected number of cases being considered by RDC, has led to lower numbers going to DCM. It was noted that JT at DC has remained constant during this process, and there is no backlog. The DoR reported that the prediction of how many cases will be considered DCM is difficult to forecast, due to reasons advised. Members raised concern that to date 50% of DCMs scheduled so far this year have been cancelled. Following a free and frank discussion it was agreed that the DoR would review the next 6mths of planned dates of the DCM schedule and ensure that a fair consistency of Members were on each DCM going forward.

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<td>DoR/CM to review the DCM planned schedule for the next 6mths and ensure that a fair consistency of Members are considered at each DCM if meetings are cancelled.</td>
<td>DoR/CM</td>
<td>August 2020</td>
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10.3 The Chair reiterated that Members were concerned they would lose skills if DCMs continue to be cancelled. Members acknowledged that the new RDC process saves on Members travel time etc. however, the use of Zoom meetings for DCMs also saves on this cost too.

11.38am DoBP re-joined the meeting

10.4 Members discussed the number of cases split between RDC and DCM and it was agreed that the cost of a DC has reduced as a result of the changes to the process. There is also no decrease in service or increase in risk.

10.5 Members requested that consideration be given to the number and type of cases which are considered by DCM, as they are typically more complicated, they also think the number of cases being considered should be restricted to 3 or 4 cases per DCM. The DoR to advise the CM of Member’s request.

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<td>DoR to advise the CM of the request by Members to restrict the number of cases considered by DCM to 3-4 per committee.</td>
<td>DoR</td>
<td>October 2020</td>
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11.41am DoR left the meeting

11.1 The DoBP spoke to the papers presented.
11.2 Members noted the variance summary to date. Income is currently £297,520 ahead of Budget and Expenditure is underspent by £111,350. The DoBP advised that they were still finalising the EoY accounts, so there will be further adjustments to be made to these figures.
11.3 The DoBP reported on the new layout and explanation of Appeal Legal costs, and advised Legal expenses spend to date was £231,206. This resulted in an EoY overspend of £81,206. It was noted this included a provision for Appeal expenses liable to be paid out on the Judicial Review and other outstanding Appeals. Members thanked the DoBP for the new layout and breakdown of Appeal cost and Legal expenses, they have found this very helpful and informative.
11.4 Members noted costs of Members’ salaries are £44,875 under budget for the year. Members agreed that this budget line should not be reduced as they were about to
11.5 The Chair sought clarification on the EOY surplus. The DoBP reiterated Income was £297,520 ahead of the original budget, with Expenditure showing a saving of £111,350 compared with the original budget. It was noted that we are currently estimating a year-end surplus position of around £230k, with this surplus being returned to Reserves.

11.6 It was noted that Reserves position for 30 June 2020 will be £623,513, this will bring us back in line with current policy of holding 2 months of operating costs as Reserves. The AC Chair advised that the Auditors supported this move of increasing the Reserves position back up to holding 3 months of operating costs in Reserves. As this is seen as good governance and due diligence by both SMT and Board. The AC Chair also advised there was a duty of care to ensure that the business remained in a good financial position. Members considered this and agreed that they, as a Board, were more comfortable that the Reserves had increased back up to 3 months instead of 2 months.

11.7 The Chair enquired if there were any other cost surpluses for 2019/20 that should be highlighted to the Board. The DoBP confirmed there were none, other than the Pension adjustment and SMT were reviewing 2020/21 costs but nothing major to report at present.

11.8 The Chair thanked the DoBP and CEO for their update and explanation to the figures presented.

12. Q4 Customer Feedback

12.1 The DoBP spoke to the paper presented and advised that of the 814 surveys issued over the last Quarter, the response rate was only 17% which was disappointing.

12.2 Members noted within the free text feedback there were “feelings of frustration of not being able to speak to someone on the phone before Covid-19” and wondered if they had the opportunity to speak to someone. The DoBP advised under normal circumstances they would have but during the initial stages of lockdown it took a few weeks to implement a temporary phone system. The CEO explained the current system to Members. Members expressed their concern about fairness of accessibility for service users. Following discussion, it was agreed that if case numbers have been provided in the feedback relating to these points, then further investigation and analysis would be provided to the Board.

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<td>CEO/DoBP to review free text feedback for further investigation and analysis to report back to the Board</td>
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12.3 The DoBP acknowledged the concerns, and indicated we were looking at options for a longer term solution allowing a full return to service. There were also new factors to consider a need to ensure staff wellbeing for taking calls whilst WFH and issues around confidentiality. The DoBP confirmed at present the Case Support Officers (CSOs) provided an enquiry service Monday-Friday between 10am-12noon and 2-4pm. Unfortunately currently there is no functional ability to transfer calls but CSOs take messages, then email CIs and other members of staff. The CEO reported that SMT are receiving information of the number of calls received on this medium.

12.4 Members also noted their disappointment in the free text feedback about “timescales and cases taking too long” as the process has quickened up significantly and wonders if this is a carryover from previous Quarter. The DoBP advised it could be a response relating to a case closed in a previous Quarter or that despite much improved journey times we would still have the odd case which took far longer than the average, unfortunately there was no way of knowing if the feedback does not include a case reference number to investigate this further. The CEO reported that JT had reduced from 16 months to 7 months over the last four years. However, we also don’t always know what an individual’s expectations are – six months may be ‘fast’ to one person and unacceptably slow to another.

12.5 The Chair enquired if the Customer Feedback Report had been shared with the Consumer Panel and the DoBP confirmed it would be at their next meeting. The Chair wished to attend the next Consumer Panel Meeting.
13. **Risk Register Summary**

13.1 The CEO spoke to the paper presented and advised that the Risk Register had been reviewed in conjunction with the ‘de novo’ review, one document had now been produced, and this had been fully discussed at the recent AC Meeting prior to presenting today at Board.

13.2 The AC Chair confirmed that the AC reviewed each Risk in detail and following discussion at AC it was agreed that Risk 7 would be increased to ‘red’. The AC acknowledged the work carried out by SMT in reviewing this document and Members were assured that Risk 7 had been increased.

13.3 Members sought an explanation to the Risk Summary scores in particular between Residual v Appetite. The CEO explained this further. The column compares mitigated or residual risk with the risk appetite set by the Board for that item. If they do not match, then it would be ‘no’ in the column i.e in Risk 1, the net residual risk appetite is 6 v target risk severity of 4 = no. This flags more work on mitigation may be required (to achieve the target the Board has set), or that mitigation exceeds a higher appetite that the Board had been willing to accept (suggesting we are being too cautious in addressing an issue).

13.4 Members also sought clarification on Risk 10. The CEO advised that this had been prepared prior to the Legal Chairs meeting, and this was a phasing issue that would be updated in light of earlier Board discussions.

13.5 Members were pleased to see Risks 13 and 14 added, as Members were concerned about the impact of Covid-19 was having on staff returning to the office and in particular, how current Members will build a rapport with newly appointed Members. The CEO acknowledged this and though the recruitment process was in the early stages, both the Chair and himself had been thinking about new Member Induction and how this would be approached if we are not fully back in the office. It was agreed this also an opportunity to touch base with Members to see how they were feeling about the current situation.

13.6 Members thanked the CEO for his explanation and acknowledged this was a good piece of work and a worthwhile exercise.

14. **Q4 2019/20 HR Update**

14.1 The DoBP spoke to the paper presented. Members noted the current staffing was 7.44 FTE under budget. This was due to a combination of factors. The decision not to fill the Finance Manager vacancy at this time. There were 2 oversight vacancies which the DoPP is currently reviewing and have been cautious on recruitment due to Covid-19. Also due to COVID-19 we have not replaced two CSO posts. However, as the Oversight Manager resigned in June and this role is part of our statutory functions, recruitment for this role will commence tomorrow, both internally and externally. There has also been an internal recruitment for an additional duties role of a Digital Specialist, aligned to our new strategy, this closes later today.

14.2 Members noted that short term sickness absence (S&A) had dropped during Q4 and wondered if this was coincidental due to staff WFH. The DoBP reported SMT think this a coincidence and not linked. The CEO advised that other bodies were seeing rates of S&A dropping, however it is being monitored. Staff are reminded that if they are unwell they need to call the HR absence line, at present this is diverted to the DoBP. The DoBP advised that LTS returners may have distorted the Q4 figures, and there was still one member of staff off LTS, which will continue at present.

14.3 The Chair enquired if an Exit Interview was conducted with the departing Oversight Manager. The DoBP confirmed it had and they had also trialled the new Exit Interview Survey Monkey Process as well.

14.4 Members noted the other updates within the paper presented.
15. **Update from Remuneration Committee**

15.1 Members noted the update paper presented and the DoBP gave an overview from the recent meeting. This included an analysis and output of Member Expenses which will be brought to the next Board meeting for approval.

15.2 Members also noted there was a good discussion on succession planning, this is moving forward during the next Quarter, and will be brought to the Board in due course, along with the People Strategy.

15.3 The Chair thanked RC Members and DoBP for their update.

16. **CEO Remuneration Policy Process**

16.1 The Chair reported to ensure transparency of the CEO Pay Process, the RC had discussed this process document, which is presented to Members for approval.

16.2 Members fully agreed and approved with the document and process.

17. **Update from Audit Committee**

17.1 Members noted the update paper presented.

17.2 The AC Chair gave an overview from the recent meeting. In particular, advised Members that both the AC and RC meetings had now reviewed Members’ Expenses and it was the intention of the IA to include this area in their next Audit. Following discussion at the AC, it was agreed that as this area only accounted for 4-5% of the overall salary bill, that this will not be reviewed by IA in this coming Audit Plan. It was acknowledged by AC that there was still work to do on Members Expenses with regards to reviewing the claim form, but it was agreed that this would be the remit of RC.

12.25pm DoPP joining the meeting

17.3 The AC Chair reported that the IA also suggested that the AC Chair should have a pre meeting with the CEO to clarify AC Agenda items, thus ensuring that relevant topics are discussed at AC/RC before coming to the Board. This will ensure the efficient process and improvement of meetings going forward. For example, it was agreed at AC, that the Succession Plan would not be remitted back to AC as it was better placed to sit with RC, where it would be discussed in detail before coming to Board for update.

17.4 Members sought clarification relating to the AC Action update within the AC Minutes. Going forward it was agreed that the Secretariat would circulate a copy of the AC Action Register along with the AC Minutes to the full Board.

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<tr>
<td>Secretariat to circulate a copy of the AC Actions Register along with a copy of the AC Minutes to the Board.</td>
<td>Secretariat</td>
<td>Following next AC Meeting</td>
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17.5 The Chair thanked the AC Chair and DoBP for their update.

12.27pm DoBP left the meeting

18. **Q4 2019/20 Operating Plan Update**

18.1 The DoPP spoke to the paper presented, gave an update on projects to date and advised that the two projects which were ‘amber’ had clear plans to be concluded in Q1.
18.2 Members sought an update on Project B - Reducing common causes of complaints – tackling unnecessary costs, focussing resources on the right issues, point 5 - Complaints reduction. The DoPP reported this point was still outstanding, which is why this project is ‘amber’. The DoBP explained that a small working group was reviewing how a tool might be able to support lawyers and firms use the outcomes of DCs to support reflection and on issues which might be preventable in the future through system changes or other responses. This tool had been largely developed, based on ‘critical incident review’ models in other industries, but was still being finalised. Members were interested to review this process once it was complete. This was agreed it would be shared with Board.

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<td>CEO/DoPP to share process document of Project B, point 5 with Members when drafted.</td>
<td>CEO/DoPP</td>
<td>Q1</td>
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18.3 The Chair thanked the DoPP and CEO for their update.

12.33pm DoPP left the meeting

19. **Board Actions Register**
19.1 Members noted the ongoing Actions and agreed all other completed actions should be removed from the register.

20. **Minutes of Previous Meeting from 12 May 2020**
20.1 The Minute of the Board Meeting was noted and approved as read.

21. **Note of the Legal Chairs Review of Appeals Process**
21.1 The note of the Legal Chairs meeting was taken as read.

22. **Chair’s Report**
22.1 The Chair reported that the annual Member 1-1 chats had all taken place virtually via Zoom. Going forward in August there were two external meetings planned, one with the new LSS President and the other with SGvt Justice Director, Neil Rennick. It was also noted that early discussions had commenced with SGvt regarding the new Member recruitment process.

23. **Date of Next Meetings**
23.1 Members noted the dates of the next meetings as:
- Board Conference Call will commence at 9am on Monday 14 September 2020
- Board Development Session will commence at 2pm on Monday 19 October 2020
- Board Meeting will take place at 10am on Tuesday 20 October 2020
23.2 The Chair will confirm whether these meetings will take place either in the office or remotely, depending on SGvt guidelines.

24. **AOCB**
24.1 Provisional planner dates for 2021 meetings – these were noted. It was agreed a printed copy would be sent to Members.

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<td>Secretariat to circulate a copy of the provisional 2021 meeting planner to all Members.</td>
<td>Secretariat</td>
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25. **Chief Executive’s Report**
25.1 The CEO gave a brief overview of meetings to date and the Board noted the paper presented.

12.40pm CEO and Secretariat left the meeting
Private Member only session, after which the Chair advised the Secretariat on item 26.

26. **Chief Executive's End of Year Review and 2020/21 Targets for CEO/SMT**
26.1 The Chair confirmed that Members noted and agreed with Chair's presented paper on the proposed EoY Annual Appraisal for the CEO during their private session.

27.1 **Review of the Meeting**
27.1 With no other business the meeting concluded.

*12.50pm Board Meeting ends*