

**MINUTE OF A MEETING OF THE MEMBERS OF THE SCOTTISH LEGAL COMPLAINTS
COMMISSION: 10.00AM TUESDAY 23RD MARCH 2021
VIA: ZOOM due to current lockdown situation**

PRESENT:

LAY:

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

LAWYER:

Denise Loney
Amanda Pringle
Kay Springham

Apologies:

None

In attendance:

Neil Stevenson (CEO) (Items 1-19)
Louise Burnett (DoBP) (Items 1-19)
Caroline Robertson (DoR) (Items 1-19)

[REDACTED] (Secretariat – minutes) (Items 1-19)
Vicky Crichton (DoPP) (Items 1-19)

Abbreviations used:

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

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

1. Welcome

- 1.1 The Chair welcomed everyone to the Board meeting and thanked everyone for their input to yesterday's Board Development Session.
- 1.2 The Chair acknowledged that this would be the last Board Meeting attended by our demitting Members, Amanda Pringle, Emma Hutton and Michelle Hynd and warm thanks were given for their valued contribution during their last five years.
- 1.3 Members noted the continued impact of coronavirus and lockdown on staff, members of the profession and clients, and the various pressures this was creating.
- 1.4 The Chair noted the tabled papers and advised these would be taken at the appropriate points in the Agenda.

2. Apologies

- 2.1 None.

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 – Members noted the current position with regards to key staff only accessing the office one day per week to deal with mail etc. The CEO thanked Members for their steer on future secondment opportunities, which was noted by SMT.
- 4.3 Joint work with LSS on Interim Improvements to the Complaints System – The DoPP provided an update on the published response from the FoA, in which they strongly disagreed with many of the proposals. Members wondered why the FoA so strongly disagreed with some of the proposals and questioned if they had not been involved in earlier stages of the process. The DoPP advised the changes proposed in the SGvt consultation process, have been discussed and agreed over the last 3-4 years by ourselves, SGvt and the Law Society, and with the agreement of FoA and ACA. The DoPP noted that the consultation document itself, as published by SGvt, mentioned the Faculty’s involvement in developing the proposals. The DoPP explained that our understanding was that a Faculty Committee had now taken a different view. Members noted this was the only submission the SLCC were aware of due to the FoA publishing it on their website. It was noted SGvt would need to consider all submissions received on the consultation. Following a free and frank discussion, it was agreed, the CEO and DoPP would continue to engage in this process, and provide Board with further updates at the May meeting.
- 4.4 Fit for Future / Scottish Government (SGvt) Working Party – Members noted that the SGvt have indicated the consultation will be delayed and will now be consulted on during the post-Election period. Member, K Springham also advised she attended the CMA event on the next steps for legal services reform in Scotland, which was a very interesting event.
- 4.5 Law Society / Master Policy (Locktons) – The DoPP advised that progress was continuing in the pursuit of redress for parties. It was noted that DoPP had attended, as an observer, the LSS meeting of the Master Policy brokerage tender, this was carried out by the LSS Insurance Committee last week. It was also noted that whilst the LSS allowed the DoPP to observe part of the tender process, in that, she was able to observe the tender presentations, she was not be able to observe the discussion by the Panel or the decision making process, which took place thereafter. Members noted that a confidentiality agreement was signed by the DoPP and it was formally recorded that no information was shared with the SLCC or Board as to the content of the meeting attended by the DoPP. Members sought an update on the number of outstanding claims still to be pursued by Master Policy. Whilst the DoPP did not have an accurate figure to hand it was agreed this would be shared with Members after the meeting. Though the DoPP thought this related to a small number of firms that had a number of higher value or complexity claims against them, and as a result are taking more time to investigate. The DoPP thought they were about halfway through the outstanding claims to date. It was also agreed the DoPP would provide a short report to the Board at the May meeting.

Action	Owner	Due Date
DoPP to provide an update to Members on the outstanding claims payments due via Master Policy by email.	DoPP	ASAP
DoPP to provide a short report to the next Board meeting in May.	DoPP	18 May 2021

- 4.6 ABS – Members noted the CEO and DoPP’s earlier update on the CMA event. The CEO advised they have now also seen a ‘project plan’ from LSS on implementation, however, many of the first steps sit with SGvt, and our understanding was that a full discussion between LSS and SGvt had not yet been had. It was noted the SLCC would be updated once that has taken place.

- 4.7 Communication and Stakeholder Engagement – Members sought clarification on the Parliamentary Question and the Scottish Law Agents Society lobbying Scottish Parliament. The DoPP explained they wrote to the MSP who tabled the question, explaining the status of an NDPB and the SLCC Budget process. A letter of acknowledgement was received from Scottish Parliament.
- 4.8 Members were also pleased to see Oversight were working with the LSS CPD team to co-deliver a session on complaints as part of the New Partner course. The DoPP confirmed they found it a useful session.
- 4.9 Customer Service and Digital – Members noted that SMT would revert to providing quarterly updates on this area. However, Members were keen to ensure that a good digital phone service is provided to customers. The DoBP advised the initial VOIP trial ran into issues with some home internet providers (in particular, Virgin) so a new trial is commencing utilising the Teams calls facility. The final stages of configuring the making/receiving calls through Teams is being worked through with NVT and it is hoped that this will be rolled out to all staff ASAP. Members noted that SMT were consulting with an independent IT Consultant with a view to making recommendations on the future working model. The DoBP reiterated that the IT Consultant was completely independent and not tied to any IT firm and that any recommendations would be reported to the project team.
- 4.10 Appeals Issue – Members noted a quarterly update will be presented to the May Board Meeting. The CEO gave a brief update on the recent Appeal Hearing that related to the CoS requesting the SLCC communicate with RPOs and parties, in advance of agreeing a Joint Minute to bring their view to the Court. It was noted that the final written decision would be issued by Lord Menzies and it was agreed that the final decision, when received, would be shared with Members.
- 4.11 Oversight – the DoPP advised that they have received what is likely to be the very last SLSO complaint under the transition powers. This will be considered similarly to a Handling complaint but dealt with under different rules and different powers. It was noted it will only have a small impact on our costs, but that it means the 2021-22 financial year will be the first where there is no transition work or cost from the 2007 Act.
- 4.12 Members noted that there had been an increase in the number of Handling complaints received this year. The DoPP reported on average they would consider 8 Handling complaints, so far this year they had received 12. Members sought clarification on reasoning for the increase. The DoPP advised more were reporting on long delays of LSS investigations, this data was being monitored as part of our oversight function. Following a free and frank discussion, the Chair requested that an update be provided in the Key Issues paper for the next meeting.

Action	Owner	Due Date
DoPP to provide an update to Members on current number of Handling Complaints received to date and provide an overview of reasons for increase in numbers.	DoPP	18 May 2021

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

5. Working Party (WP) Recommendations on Operating Model

- 5.1 The CEO and WP Chair, spoke to the paper presented, giving an update on the progression of work to date, along with the plan to the end of business year and inclusions into the Operating Plan for next year.
- 5.2 Members noted that staff workshops have now taking place, with SMT still to consider and review the output from these sessions. Members enquired as to how staff had engaged with the process. The DoBP acknowledged that staff had very interesting views and suggestions. For example, a blended working model, more flexibility about working patterns and increase in the utilisation of Teams for communicating. They also considered, the office space, hygiene, travelling when returning to the office, so a wide range of suggestions and ideas were captured. It was noted an update will be provided to the next RC meeting.

- 5.3 Members reiterated that any future working models should ensure that no one is digitally excluded from accessing the services of the SLCC and that applies to staff working for the SLCC. The DoBP confirmed that the new Marketing and Communications Officer role would be taking this forward, building on the external advice, drawing on accessibility from other organisations such as Age Scotland, for example. Members also suggested that Oversight speak with SGvt and engage with the Consumer Panel. The DoPP confirmed SMT would follow up on all of the Boards suggestions.

Action	Owner	Due Date
CEO/SMT to take into consideration today's discussion and provide an update to the May Board meeting.	CEO/SMT	18 May 2021

- 5.4 The Chair thanked the WP Chair and SMT for their update to the paper presented.

6. Draft Budget and Operating Plan Consultation document for 2021/22

- 6.1 The Chair advised that this paper had been discussed in great detail by Members and SMT at the Board Development Session.
- 6.2 The Board noted responses had been received from:
- The Law Society of Scotland
 - Scottish Law Agents' Society
 - SLCC Consumer Panel
- 6.3 The Board discussed each paper in turn, noting the summaries and issues highlighted in the paper presented.
- 6.4 The Board asked if the Faculty or Association of Commercial Attorneys had submitted a response this year, and the DoPP confirmed they had not.
- 6.5 The Board noted the LSS response did not comment on where any discount to the levy might be applied if it were possible. The DoPP confirmed this had been a specific question in the consultation, but that LSS had not responded on that issues.
- 6.6 The Board noted LSS comments about ABS levies, and questioned the work planned. The CEO confirmed that both the SGvt and the LSS had indicated this may be the year that LSS is authorised. A consultation on the regulatory scheme was likely, as well as meetings with both organisations on final implementation details. New Board members would need trained, as would staff. The notional amount of the levy was set to reflect all this activity.
- 6.7 **Levy Option Models, tabled paper** – The DoBP spoke to the paper presented which was shared with Members prior to the meeting. The Chair noted the tabled paper and reiterated to Members this now included 4 Levy Option Models for Board to discuss and consider. Members noted that all of the proposed Levy models created a small surplus ranging from £3.5k to £12k, and agreed this would allow the continuation of a move of this surplus towards the reserves policy. Following a free and frank discussion, where Members fully considered all 4 Levy Option models presented by SMT. The Board agreed with Levy Option model 4. Members agreed that model 4 offers a reduction across the profession and also takes into consideration the impact that Covid-19 has had on traineeship's and 'newly qualified' recruitment, and the fact that these solicitors pose a lower risk because of the level of supervision involved.
- 6.8 Levy Option Model 4 – 20% reduction for those within first 3 years of practice and 5% Reduction on the rest

Levy Types	Consultation	Model 4	Variance
Private Practice Solicitors +3 Years (Principals/Managers)	492.00	467.00	25.00
Private Practice Solicitors +3 Years (Employed)	400.00	380.00	20.00
Conveyancing or Executry Practitioner 3+ years	400.00	380.00	20.00
Solicitors in first 3 years of practice	200.00	160.00	40.00
Practising outwith Scotland	130.00	124.00	6.00
In-house Conveyancing or Executry Practitioner	120.00	114.00	6.00
In-house Lawyers	120.00	114.00	6.00
Advocates +3 Years	189.00	180.00	9.00
Advocates in first 3 years of practice	189.00	151.00	38.00
Association of Commercial Attorneys	127.00	121.00	6.00
Income			
Levy Income	3,906,977	3,685,352	221,625
Other Income	135,305	135,305	0
Total Income	4,042,282	3,820,657	(221,625)
Total Expenditure	3,814,476	3,814,476	0
(Deficit)/Surplus	227,806	6,181	(221,625)

- 6.9 The Board formally confirmed and approved, the draft Budget and Operating Plan and noted the following would apply:
- General Levy would now be set at £467
 - 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
- 6.10 The AC Chair reiterated the AC would seek assurance that the reserves would remain, in holding 3months of reserves, which would be in line with the current reserves policy.
- 6.11 The CEO also confirmed that all responses received to the Budget consultation would be published in line with the consultation process and that the Budget would be laid in Scottish Parliament by the end of April.
- 6.12 The Chair requested that SMT draft an appropriate communication regarding the reduction of the Levy as agreed by Board. The CEO and DoPP confirmed this would be drafted and shared with the Board prior to publication.

Action	Owner	Due Date
CEO/DoPP to draft an appropriate communication regarding the reduction in Levy to the profession and to ensure that all responses are published on the website in line with the Budget Consultation process.	CEO/SMT	By 31 March 2021

- 6.13 Members thanked the CEO and SMT for their explanation to the papers presented.

11.09am comfort break, meeting resumed at 11.15am

7. Communications paper – tabled

7.1 The DoPP spoke to the paper presented which was shared with Members prior to the meeting. Members had a free and frank discussion regarding the request and following which, it was agreed that the DoPP would consider further analysis and scope the project further, with a view that if required, a paper be presented at the May Board for an update. The Chair reiterated that if the project was within the current financial parameters then there was no requirement to present a paper to the May Board.

Action	Owner	Due Date
DoPP to review proposed Communication project paper and if required, provide Board with an update paper at the May meeting.	DoPP	18 May 2021

8. Management Information to 28 February 2021

8.1 The DoR spoke to the paper presented and advised that incoming was continuing to be monitored. Members noted that whilst incoming was down slightly YoY, JT had increased marginally since last quarter. The DoR advised that the JT is the maximum of the average of a file at any one point in time, which for example in February it was 7.7mths. Eligibility and Determination waiting time are both still very low, so Investigation was the main area being targeted. Resource had been moved across from eligibility and there is scope for improvement by obtaining practitioner files promptly, and a new Sprint trial is commencing on this area. This involves CSOs requesting practitioner files when Eligibility notices letters are issued to parties, and not at the later stage of when a case is transferred to Investigation stage, thus speeding up the process. In turn, it is hoped this will reduce JT and improve WIP.

8.2 The DoR also advised that they were also trialling a new Sprint process before cases are transferred to Mediation stage. This involves a CI piloting a sifting of cases to consider if they are suitable for Mediation or whether they should be transferred straight to Investigation stage. The CEO advised that Members will receive an update paper on Sprints at the Board Meeting in May.

Action	Owner	Due Date
DoR to provide Board with an update on Sprints in the key issues briefing at the May meeting.	DoR	18 May 2021

9. Update from the Legal Chairs Meeting

9.1 The Legal Chairs gave Board an update on the recent work of the Legal Chairs project on the oversight of the Appeal Sprint. It was noted that not all members had overseen a case yet, and therefore while this sprint would be closed and a new one would be started, including the new legal member, to allow all three legal members to oversee a case and provide feedback.

9.2 The Legal Chairs had also been considering the cost of Appeals and whether the current process could be streamlined in anyway. They also considered whether it would be appropriate to appoint our own 'in-house' Lawyer. However, it was agreed that this would not be practical or beneficial, due to the individual having to keep their Practising Certificate up to date etc.

9.3 The Legal Chairs advised they had also fed into the Legal Tender round discussions which was helpful.

9.4 The SMT and Legal Chairs agreed it had been useful to consider our appeal processes, and that this should be done periodically.

9.5 The Chair sought clarification on the timescale suggested by the Legal Chairs for a future review. The Legal Chairs suggest this happen in around for a further 2 years. Board agreed with their suggested timescale.

9.6 The Chair thanked the Legal Chairs for their update and input on this project to date.

Action	Owner	Due Date
DoR to create follow-up sprint on appeals oversight.	DoR	End April 2021
DoR to add a further review of the appeals process for two years into the legal panel to be appointed under the forthcoming tender exercise, allowing learning to inform the next tender after that.	DoR	By Sept 2023

10. Finance Report to 28 February 2021

- 10.1 The DoBP spoke to the paper presented and reported the current position as at 28 February 2021, is showing overall, income is ahead on the year date to budget by £51,930 and expenditure is showing a saving of £329,817.
- 10.2 Members noted the Complaints Levy is currently £42,800 ahead of the budget due to the reduction in bad debt provision, and includes the monies received from Lockton's for historic cases (a 'windfall' which will not be repeated in future years).
- 10.3 The DoBP advised the projected outturn for 2020-2021 with income being ahead of the original budget, will result in a projected surplus of £278,932, thus ensuring that reserves will be increased in line with the Reserves Policy.
- 10.4 The CEO advised that the forthcoming Induction of the 3 new Board Members, who start on 1 April, would be incorporated into the Indirect Staff Costs of Member Training and Development.
- 10.5 The Chair thanked the DoBP for the explanation to the papers presented.

11. Risk Register Summary

- 11.1 The DoBP spoke to the paper presented and gave an update on the current Risks. The DoBP advised the following Risks had been reviewed since the last meeting, with minor adjustments:
- 11.1.1 Risk 4 – updated to remind staff of the importance of cyber security and the DOBP also advised she was attending Scottish Business Resilience Centre's Cyber Executive Education Course.
- 11.1.2 Risk 5 – has been updated to include the utilisation of Alert Cascade, which was used to communicate with all staff and Board Members on recent IT issues.
- 11.1.3 Risk 10 – has been updated.
- 11.1.4 Risk 11 – has been updated as we are in the testing phase of an online tool that automates our PO approval process.
- 11.1.5 Risk 12 – remains, the Induction Plan for new Members is well underway but unfortunately we still await the names from SGvt. The DoBP requires this information to set up IT and profiles on the system.
- 11.2 Members noted the paper presented and thanked the DoBP for their update.

11.58am break to observe the minute silence in remembrance of all Covid-19 victims 12.03pm meeting resumed

12. Update from Remuneration Committee

- 12.1 The DoBP spoke to the paper presented. Members sought clarification on the new Staff Ambassador role. The DoBP advised this was different to that of a formal TU Rep, and this role would represent staff who are not members of a union. The DoBP explained the differences between the two roles and reiterated that the Staff Ambassador would have no input into any official TU bargaining on wage deals. Members were keen to ensure that training would be provided for this role and the DoBP confirmed it would be.

13. Board Actions Register

- 13.1 Members noted the ongoing Actions and agreed all other completed actions should be removed from the register.

14. Minutes of Previous Meeting from 26 January 2021

- 14.1 The Minute of the Board Meeting was noted and approved as read.

15. Chair's Report

- 15.1 The Chair advised the recruitment process had concluded for the new Members, but unfortunately to date there was no update on the release of names who had been appointed. These are currently with the Lord President's Office for approval of the Legal Members. The Chair advised that there had been a strong field of 84 candidates who applied, there were 4 days of interviews, resulting in 3 candidates being appointed to join on 1 April 2021 and 4 joining on 1 January 2022. The Chair reiterated that as soon as SGvt and Ministerial approval was received on the release of the names, they would be shared with Members.
- 15.2 The Chair updated Members on their recent meeting with SGvt on the Consultation of the Budget, which was a positive meeting.

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 17 May 2021.
 - Board Meeting will take place at 10am on Tuesday 18 May 2021
- 16.2 The Chair advised it was anticipated that these meetings will continue to take place remotely due to SGvt guidelines.

17. AOCB

- 17.1 Member, A Pringle gave an overview of two recent events she attended on behalf of the SLCC:
- 17.1.1 the FJSS Workshop, where she gave a presentation on being a Board Member on SLCC. This organisation represents BAME communities in respect of their use of legal services, lawyers, and the justice system. The event was very interesting and they have a very diverse and dynamic membership of their group.
- 17.1.2 a Mackay Hannah Webinar, chaired by our CEO, again this was a very interesting event.

18. Chief Executive's Report

- 18.1 The CEO gave a brief update on various meetings to date and Board noted the paper presented.
- 18.2 The CEO also extended his personal thanks on behalf of himself, the SMT and all staff to the demitting Members, E Hutton, M Hynd and A Pringle.

19. Review of the Meeting

- 19.1 The Chair concluded the business meeting of the Board by extending his warm thanks to the 3 demitting Members, E Hutton, M Hynd and A Pringle for all their support, to him in his role as Chair, and to the SLCC. It was noted that due to the current lockdown restrictions, it was unfortunate that Members were demitting office via Zoom and not in person and it was agreed that they would all be invited to meet at a mutually convenient date, time and venue when restrictions allowed.
- 19.2 Members E Hutton, M Hynd and A Pringle all extended their thanks and best wishes to the remaining Board Members, SMT and staff.
- 19.3 With no other business the meeting concluded.

12.20pm Board Meeting ends