

**MINUTE OF A MEETING OF THE MEMBERS OF THE SCOTTISH LEGAL COMPLAINTS
COMMISSION: 10.00AM TUESDAY 14th May 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:

None received

In attendance:

Neil Stevenson (CEO) (Items 1-22)
John Ferrie (F&CSM) (Item 7)

[REDACTED] secretariat – minutes) (Items 1-22)
Louise Burnett (DoBP) (Items 7-10)

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

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

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 and Secretariat joining the meeting at 10.05am

1. Welcome

- 1.1 The Chair welcomed everyone to the Board meeting and thanked everyone for their input into the member development session yesterday.
- 1.2 The Chair noted during the private session Members raised concern on two items in particular:
 - 1.2.1 The quality of Board papers, the way they are written, grammar and language used within. Members were also concerned about the standard of material being issued, and wondered if this was to the same standard which gives them cause for concern. The CEO advised that papers are prepared by a number of different people; however SMT will ensure that the papers are reviewed for the next meeting.
 - 1.2.2 The cancellation of the last Legal Chairs meeting, Members were concerned about the short notice cancellation of this meeting without any prior consultation with the Legal Chairs. The CEO apologised for this and advised that a new date would be set as a matter of urgency.
- 1.3 Apologies were noted from the CEO on both items raised.

2. Apologies

2.1 None received.

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 the PCS Update in the Key Issues 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. 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 ET – Members sought clarification as to whether the Legal advisors have indicated how long this process will take. The CEO advised it unlikely that this will be heard this financial year and reiterated there is nothing we can do to progress the matter. Due to this continuation it is likely that any costs incurred etc. would now be in next financial years' accounts.

4.3 Joint work with LSS on interim improvements to the complaints system – Members noted the updated position. The CEO and SMT to ensure continued discussions on this matter with all relevant professional bodies and SGvt, though it was noted we had been informed that all SGvt Legal advisers were busy due to the volume of Brexit work.

4.4 LSS Whistleblowing scheme – the CEO gave a short overview of the exchange between the LSS and the SLCC. Members raised concern that the discussion had been going on for so long without clear guidance being finalised. Following a free and frank discussion it was agreed that the CEO would request examples from LSS for us to assess our view on whether these amounted to 'expressions of dissatisfaction' which should have been passed to the SLCC. The Board requested an update on this work at their next meeting.

4.5 Members also sought an update on 1st tier complaint logs, and the CEO advised that there would be no further update until after the LSS AGM, which is not due to take place till 30 May, once this date has passed the CEO will speak with the Lord Presidents Office.

4.6 Members sought clarification as to when the newly resurrected Remuneration Committee would meet for the first time. The CEO advised that it was taking longer than anticipated to set up a meeting with the PCS Union to discuss the forthcoming pay negotiations. The Chair instructed that the first meeting of the Remuneration Committee should take place prior to the meeting with the PCS Union. The CEO agreed that this could be actioned as quickly as possible. Members of the Remuneration Committee agreed with this.

Action	Owner	Due Date
CEO to arrange first meeting with Remuneration Committee Members prior to joint meeting with PCS Union.	CEO / DoBP	As soon as possible

4.7 All other updates within the paper were noted by Members. The Chair thanked the CEO for his updates to the paper presented.

5. Q3 2018/19 Long Term Trends and Management Information to 30 April 2019

5.1 The CEO spoke to the paper presented. Members noted that departing staff had not been replaced and enquired where they sat within the organisation. The CEO advised that two CIs had left and one was returning from maternity leave but returning into another role as Information Officer. Consideration is being given by the SMT as to whether to fully recruit for the next set of maternity leave cover (two). Members noted that staffing had increased at investigation due to internal moves. The CEO advised this was CIs being moved from Eligibility to Investigation and a Case Support Officer being promoted into an Eligibility CI role.

- 5.2 Members noted that Clerking had not met its KP target this quarter and sought clarification to the reasons for this. The CEO explained that Clerking targets were dependent on a number of various other factors (in a way others teams were not), in that, their production targets are dependent on: number of cases passed to DC; Member responses within timescale, adjournment or case settlement. There has also been a deliberate management decision to cancel a DC meeting to focus resource on investigation.
- 5.3 Looking at Journey Time, the Chair requested that the CEO produce the summary data extracting the '10' longest cases, to show a comparison of JT.

Action	Owner	Due Date
CEO to extract '10' longest cases from JT comparison report for next presentation of management information stats.	CEO	30 July 2019

- 5.4 The Chair thanked the CEO for his explanation to the papers presented.

6. Q3 2018/19 Operating Plan Updates

- 6.1 The CEO reported that both the Interim DoPP and former DoPP drafted the paper presented.
- 6.2 Members noted that the Consumer Panel project was 'red' and that the Panel Chair had resigned. The CEO explained that the Consumer Panel Chair, Carol Brennan had retired from her role at QMU and subsequently decided to stepdown as the Consumer Panel Chair. The Interim DoPP has this as a priority action and it was noted one of the existing Consumer Panel members has agreed to be interim Chair meantime. Members recorded their thanks, on behalf of the Board, to Ms Brennan for all her hard work and contribution to the Consumer Panel and Board matters.
- 6.3 Members sought clarification on the following objectives:
Objective 3 – Efficiency, point 6 – issues around taxation of fees, it was noted that parties going through the taxation process will experience an additional delay.
Objective 4 – Raising Profile of SLCC to Consumers, point 4 – utilisation of Members' profiles with Stakeholder Engagement events. The CEO noted member profiles had been promoted in the annual report and agreed to continue to look for ways to raise profile.
Objective 9 – Launch of new website, point 4 – a member asked a question about the provision for access for visually impaired individuals to the website. The CEO explained that reasonable adjustments are made for all parties, in that, we use BSL, audio/braille, there is the option for a complaint to be taken verbally by staff over the phone. It was noted that we were working with IT providers/users to ensure that screen reading software that they use will be compatible with our new website and vice versa. Our aim is the WAI AA standard, and this will be checked using the 'site improves' tool once the new website was launched. Members noted they had received information about the new website in March and wondered when this would be 'live'. It was agreed that the CEO would ensure that the Board were aware of the timetable. Members suggested the need for external testers as well as internal before the 'live' launch date. The CEO agreed this would be the case.

Action	Owner	Due Date
CEO to share website launch timetable with Members.	CEO	ASAP

Objective 15 – Development of staff, point 1 – typo at the date, should read December 2018.

Objective 16 – Development of Members, point 1 – Members raised concern that they had not been involved in the recent Mental Health First Aid (MHFA) training and they were still awaiting further information about the suggested IoD Governance training. It was noted that it would be useful to ask Scott Moncrieff, our internal auditors, for a training proposal if IoD were not responding. The CEO reiterated that there had been training on Master Policy and more recently Guarantee Fund but would welcome further ideas as IoD had still to respond. Members suggested more integration between Members and staff would be helpful, as would an overview of MHFA and looking at the

difference between Governance and Operational role of the Board Member. The CEO thanked Members for these suggestions and agreed to bring this back to the next Board meeting.

Action	Owner	Due Date
CEO to contact Scott Moncrieff and bring a proposal back to the next Board Meeting in July.	CEO	By 30 July 2019
DoBP to ensure members were involved in the upcoming Mental Health Awareness Week	DoPP	By 30 June 2019

Objective 20 – Improvement of Records Management, point 7 – Members sought clarification on cyber security training and the CEO agreed to review this with IT and circulate information to Members.

Action	Owner	Due Date
CEO to share IT and cyber security timetable with Members.	CEO	ASAP

11.15am comfort break

11.22am meeting resumed with DoBP and F&CSM joined the meeting

7. Financial Management Report

7.1 The DoBP and F&CSM spoke to the papers presented.

7.2 **FMR – 10 months to 30 April 2019** – Members noted Income from recoverable complaint levies of £12k during April, showing a revised year-end position of £89k. Bank interest for 10months is £35k, with year-end out-turn is projected to be £37k. Expenditure of direct staff costs have continued to be over budget, showing continued overspend cumulative £66k to date.

7.3 The F&CSM advised that the budget out-turn for 2018/19 indicates an excess expenditure of £128k, with an income excess of £111k. These predictions will convert a budgeted surplus of £14k into a deficit of approximately £3k. It was noted that Reserves for end June 2019 were anticipated to be in the region of £453k.

7.4 **Balance Sheet** – Members noted the balance sheet presented.

7.5 Members sought clarification on the increase in recoverable complaint levy income and the impact this would have on the year-end reserves position. The F&CSM advised that the original budget was set at £25k; however income from recoverable complaint levy income was £60k, with £18k being received in April alone. It was noted that bad debt provision will continue to rise and any recovery from bad debt provision would be additional income.

7.6 The Chair thanked the F&CSM and DoBP for their update and explanation to the figures presented.

11.29am F&CSM left the meeting

8. Q3 2018/19 Customer Feedback Risk Register

8.1 Members suggested a format change to the choice of responses on the feedback survey. This was agreed and the DoBP would ensure this change would take place in the new financial year.

Action	Owner	Due Date
DoBP to ensure change to the feedback survey to commence for issuing to parties from 1 July 2019.	DoBP	By 1 July 2019

8.2 Members noted there was still a continued view of bias, which is a recurring theme in feedback responses. The CEO reported that SMT are aware of this and are reviewing this report. Members asked for an update at the next Board meeting.

Action	Owner	Due Date
SMT to review feedback themes and provide an analysis for the next Board meeting.	CEO / SMT	By 30 July 2019

- 8.3 Members sought clarification between the different satisfaction rates, outcomes and how this information is monitored if either party lose their case. It was agreed 'comfort zones' need challenged and it was thought this could be a project for the Consumer Panel. The CEO agreed to review the data and report back whether this was a topic for the Consumer Panel to consider.

Action	Owner	Due Date
CEO to review the data and extract differences in satisfaction rates between parties winning/losing cases.	CEO	By 30 July 2019
CEO to contact Consumer Panel to ascertain if they would consider feedback survey response rates as a project.	CEO	end Q2

9. Q3 2018/19 HR Update

- 9.1 The DoBP spoke to the paper presented. Members noted the current recruitment status during Quarters 2 and 3, in particular the replacement for DoPP, which will be concluded during Qtr3. The DoBP reported the variance in FTE headcount figures were due to long-term absences and a full analysis will be provided for the next reporting period.
- 9.2 Members noted that the DoBP and Secretariat were providing significant support in the absence of the HR Manager, and thanks were recorded to both.
- 9.3 Members also noted the key HR activities for Qtr4. Members sought clarification on the interview Panel for the DoPP role. The CEO confirmed it would be the CEO and DoBP who would be conducting the first round introductory chats, with those being selected for the full panel interview taking place week commencing 27 May 2019.

10. Budget for 2019/20

- 10.1 Members noted the paper presented, which set out a reduction in the General Levy following additional and up to date information from the Law Society. The Chair confirmed the Board were required to ratify the decision previously made by email following the last Board Meeting. Members all agreed and confirmed their decisions.

11.44am DoBP left the meeting

11. Appeals Update

- 11.1 Members noted the paper presented. The CEO informed the Board that a Judicial Review had been raised against the SLCC; this relates to an Eligibility case that the SLCC raised in its own name.
- 11.2 Members sought clarification on the data regarding expenses, in particular the pursuance of expenses and why they are awarded or not at the CoS. It was noted we were having difficulty getting awards made, and then recovering them, from party litigants.
- 11.3 Members reiterated they are still not being advised about all Appeals. The CEO agreed to remind SMT/IMT that this should be happening.

Action	Owner	Due Date
CEO to remind all relevant staff, and all managers, or need to intimate appeals to members	CEO	By 30 July 2019

- 11.4 Members sought clarification as to whether learnings would be shared with them; in particular, Members were seeking an analysis of recent appeals. The CEO advised that there were no single case learnings at present, and agreed to feed this back to SMT/IMT, as the Chair also agreed that a summary rather than a full narrative would be beneficial for reporting and learning.

Action	Owner	Due Date
Appeals paper template to be amended to only share key learning from appeals, or note that there is no generalisable learning.	DoR & CM	By 30 July 2019

12. Complaint Levy Policy Review

12.1 Members noted the paper presented and following discussion agreed with the recommendation from 1st July 2019, the new 3 band tariff of the Complaint Levy will be:

£5,000	the 'Full Complaints Levy'.
£3,000	the 'Reduced Complaints Levy', to be used where the practitioner has complied completely or substantially with good practice in complaint handling and dealings with the SLCC.
£1,000	the 'Nominal Complaints Levy', where the IPS is considered very minor as reflected by the awards or directions made.

12.2 Members agreed that if costs reduce then the Complaint Levy Policy will be reviewed further.

13. GDPR Update

13.1 Members noted the paper presented.

13.2 Members raised concern that in a recent Internal Audit a 'red' grading was received in relation to the destruction of electronic files within Newpro File Manager. It was agreed this would be discussed further later in the meeting during the AC Update item.

14. Update on Policies

14.1 Members noted the papers presented, and following discussion it was agreed that Members would forward their typographical changes to the DoBP, once these have been incorporated, the policies will be finalised.

15. Risk Register Summary

15.1 The CEO spoke to the paper presented and the AC Chair advised that all risks and appetites had been reviewed at the recent AC meeting. It was noted that the layout had changed slightly to ease the reading of the document.

16. Audit Committee Update

16.1 The AC Chair reported that going forward Members Expenses would be reviewed by the newly reformed Remuneration Committee. Cyber Essential accreditation has now been received, though it has yet to be decided as to whether or not we apply for the next level of accreditation, this will be considered at the next AC Meeting.

16.2 The AC Chair also reported the results on two recent Internal Audits. The Agile results have been very positive, giving good assurance about the approach. Minor issues identified had already been actioned. On the data retention audit the case accuracy had been high, with no issues identified. However, there was a 'red' issue identified in relation to the automated file manager in Newpro, which is not yet fully functional. This had been a surprise to the committee. This did not create a breach of GDPR, as information can be deleted manually from the system. However, this action had been due for completion. The delay is due to issues with our 3rd party providers CAS. The Auditors were right to flag this as it needs to be addressed, and indeed the red rating was helpful in underscoring the seriousness of our concern with the suppliers. The AC Chair reported that SMT were aware of this issue since May 2018, and whilst there was an initial concern we could be in breach of GDPR when it had been explained that information can be deleted manually it is not as big a risk as was first thought. The Chair enquired whether CAS would have the Newpro automation ready for the next release date on 1st July 2019. The CEO advised this would need to be explored further with the DoBP to ensure this was delivered, but that this was the plan. The Chair reiterated this needed to be explored further with CAS.

16.3 The AC Chair advised that the External Audit draft Report will be brought to the October Board Meeting.

17. Board Actions Register

- 17.1 Members noted the ongoing Actions and agreed that completed actions be removed. Members sought an update on Action 262 and the CEO advised that he will need to review the data and link this to efficiencies, it was agreed this would continue.
- 17.2 It was agreed following the earlier discussion on Appeals that Action 292 would remain an outstanding action. It was also agreed that Action 296 be reviewed again in 6months.
- 17.3 The Chair agreed all other completed actions should be removed from the register.

18. Minutes of Previous Meeting from 19 March 2019

- 18.1 The Minute of the Board Meeting from 19 March 2019 was approved as read.

19. Chairman's Report

- 19.1 Members noted the verbal update from the Chair, who advised that there had only been one external meeting.

20. Date of Next Meetings

- 20.1 Members noted the dates of the next meetings as:
- Board Development Session will commence at 2pm on Monday 29 July 2019
 - Board Meeting will take place at 10am on Tuesday 30 July 2019

21. AOCB

- 21.1 Consumer Panel Minute from 12 February 2019 – Members noted the paper presented and agreed they would look forward to welcoming the Consumer Panel's Interim Chair, Shaben Begum to the next Board meeting.

Action	Owner	Due Date
Secretariat to contact the Interim Chair of the Consumer Panel to invite to the next Board Meeting.	Secretariat	ASAP

- 21.2 Determination Committee Frequency/Dates – Members sought an update on when the next set of DC dates would be circulated. The CEO advised that the next set of dates would be reviewed and confirmed later this week. The CEO will also confirm a date to meet with the Legal Chairs to inform them about the next forthcoming pilot at Determination stage.

Action	Owner	Due Date
Secretariat to circulate the next set of DC dates from July-December.	CM/Secretariat	ASAP
CEO to arrange a meeting with Legal Chairs.	CEO	ASAP

- 21.3 Papers for Board Meeting – Members appreciated these being circulated well in advance of the meeting.
- 21.4 IT and remote access unpredictability – Members again raised concerns about remote access difficulties. The CEO advised that SMT were reviewing the RSA tokens and cancelling the contract as it is not known what the issues are, it could be the server but it could be network connections, SMT are reviewing other security options. The AC Chair enquired whether this would be a tenderable option, it was agreed that the CEO and DoBP were actively looking at other remote suppliers and an update would be provided prior to the next Board Meeting.

Action	Owner	Due Date
CEO and DoBP to review the remote IT access issues and provide an update prior to the next Board Meeting.	CEO/DoBP	ASAP

22. Chief Executive's Report

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

12.50pm CEO and Secretariat left the meeting

Private Member only session on item 23

23. Review of the Meeting

23.1 With no other business the meeting concluded.