

**MINUTE OF A MEETING OF THE MEMBERS OF THE SCOTTISH LEGAL COMPLAINTS
COMMISSION: 10.00AM TUESDAY 26th JANUARY 2021
VIA: ZOOM due to current lockdown situation**

PRESENT:

LAY:

Jim Martin (Chair)
Sara Hesp
Emma Hutton
Morag Sheppard

LAWYER:

Denise Loney
Amanda Pringle
Kay Springham

Apologies:

Michelle Hynd
Sarah McLuckie

In attendance:

Neil Stevenson (CEO) (Items 1-22)
Louise Burnett (DoBP) (Items 1-22)
Caroline Robertson (DoR) (Items 1-22)

[REDACTED] (Secretariat – minutes) (Items 1-22)
Vicky Crichton (DoPP) (Items 1-22)

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 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 Members, Michelle Hynd and 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 – The CEO advised the office was now only open one day per week, with 3 key staff attending, to deal with incoming/outgoing mail, IT and facilities maintenance, and case file correspondence. Members discussed the impact of the latest January lockdown and in particular, the effect this was having on staff's health and wellbeing. The DoBP advised there had been no increase in absence reporting, also SMT/IMT are in regular contact with their teams to ensure they are aware of all resources that are available to them, should they require them. The DoBP also reported, there had been positive feedback from staff that attended the MH Winter Wellbeing Sessions being run by SAMH.
- 4.3 Resource – The CEO provided an update on current resource figures. Following a free and frank discussion, it was agreed SMT/IMT would continue to monitor, with a further update provided at the March Board.
- 4.4 Fit for Future / Scottish Government (SGvt) Working Party – The CEO noted that the DoPP had received information from SGvt, this would indicate the consultation will be delayed and now will be consulted on during the post-Election period.
- 4.5 Law Society / Master Policy (Locktons) – Members noted the positive progress being made in sourcing redress for parties, and thanks were extended to DoPP, FinO and the Oversight team for their work in this area.
- 4.6 ABS – Members noted the CEO and DoPP were attending a CMA event later today. It was noted that one of the topics on the Agenda was ABS, it was hoped they would be able provide an update to Members by email. The Chair noted this related to 2010 Act Legislation, which has now been in place for 11 years. The CEO reported there were in excess of a 1,500 ABS firms now registered in England, more than the total number of law firms in Scotland.
- 4.7 Communication and Stakeholder Engagement – The DoPP confirmed the planned rollout of the self-assessment tool took place early December through various social media mediums. Members enquired if any feedback has been received. The DoPP advised not to date, the Oversight Team will contact firms 2 months after decision letters have been issued. There will be a gap in reporting this data to Board, as the new process only commenced early December. The DoPP also reported there were good positive engagement and discussions with RPOs during the December meeting.
- 4.8 Digital – The DoBP advised following the Board Cybersecurity Session yesterday, this will become a future Agenda item. Members sought clarification on the Microsoft Teams rollout and whether this training would be extended to Members. The DoBP confirmed this would be organised for Members.
- 4.9 Appeals Issue – The CEO provided an update on the Appeal Hearing which 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 CoS were writing to the LSS to seek their views, it is understood that the Clerks of the CoS have done this, with the LSS having 2 weeks to respond. Thereafter, the final written decision would be issued by Lord Menzies. Following a free and frank discussion, it was agreed that the final decision, when received, would be shared with Members.
- 4.10 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 WP Chair, spoke to the paper presented, giving an overview of the role and remit of the WP. It was noted they were tasked with reviewing the current operating model and its processes and procedures, with a view to developing key areas for Board to consider. Key areas identified would also be subject to robust Audit reviews. It was noted, the main risks relate to IT/Digital, with each element having a risk assessment that SMT will manage, with Board having overall approval for Governance purposes.

- 5.2 Members noted that SMT had already made significant moves on remote access, digital and flexible working prior to lockdown. Members also noted that not all timescales were within SMTs control, ie the ability to reopen the office 5 days a week will be dictated by SGvt Guidance and may remain in place for the whole of 2021.
- 5.3 The Chair confirmed the paper presented reflected discussions between Board, WP and SMT members and reiterated the Board were asked to approve the 6 key next steps proposed by the WP. Following a free and frank discussion, during which Members sought assurance that SMT would include time to consider a review and to ensure consistent impact assessments are carried out when considering how complainers access our services. It was acknowledged that not everyone who uses our services has access to digital platforms to make a complaint and Members were concerned about this. The CEO assured Members that alternative means of access will also be available to all service users. Members also noted that accessibility to digital platforms also affects staff and Board Members and this should also be taken into consideration, as we should not be seen to be excluding people from working for the SLCC. The CEO agreed this was an important point raised by Members and SMT would be mindful of this.
- 5.4 Following further discussion, it was agreed the WP document would see the SLCC moving in the right strategic direction. Board approve that SMT would action the 6 key next steps proposed by the WP, with an update being provided to the March Board Meeting.

Action	Owner	Due Date
CEO/SMT to action 6 key next steps of WP operating model, taking into consideration today's discussion and provide an update to the March Board meeting.	CEO/SMT	23 March 2021

- 5.5 The CEO stated both Auditors informed the recent AC meeting, that the SLCC were ahead of many similar organisations, who have just started this process and both Auditors pleased with progress made to date. This was echoed by AC Members present.
- 5.6 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 CEO spoke to the draft Budget and Operating Plan consultation document and confirmed all previous suggestions had been incorporated into this final draft document. It was noted that Members were asked to review specific points within the paper for approval. Following discussion, it was agreed that the CEO would confirm the wording at paragraphs 2.7, 2.15, 4.30 points 3 and 7, 4.32 point 2 and 6.11, but review the wording at paragraphs 2.16, 4.12 and 4.13.
- 6.2 The CEO acknowledged that in relation to paragraph 6.4, the SGvt Budget statement would not be released until the end of this week, with the DoBP attending a briefing meeting on Friday morning. The Board agreed a 'stop press' statement could be added to the consultation if the announcement changed the assumptions it had previously been suggested that NDPBs take. Following which, it was agreed that the CEO would advise the Board of the final statement before issuing the consultation document.

Action	Owner	Due Date
CEO/DoBP advise Members by email of the outcome of the SGvt Budget statement discussions, prior to issuing consultation document.	CEO/SMT	By 29 January 2021

- 6.3 Members sought clarification on how paragraph 6.9 was measured. The CEO advised this related to an increase in the number of issues being raised in each complaint, ie one case having 29 issues being considered for investigation/determination, with others only having one or two issues. Following discussion, it was agreed paragraph 6.9 would also be reworded.

Action	Owner	Due Date
CEO/SMT to review the draft Budget and Operating Plan document, taking into consideration today's discussions, prior to issuing for consultation by 31 January 2021.	CEO/SMT	By 31 January 2021

- 6.4 The Chair requested that the CEO and SMT ensure that all amendments are incorporated and the document is proof read for consistency before issuing for publication and consultation.
- 6.5 The Board formally approved, Section 9 of the draft Budget and Operating Plan consultation document, which states:
- 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
- 6.6 The Board approved the budget contained within Appendix 1.
- 6.7 The Board also reiterated their approval of the listed suggested discounts from the General Levy for different practitioner groups.
- 6.8 The CEO confirmed that SMT would ensure that all timescales were met and that the documents would be circulated to all stakeholders for consultation on Friday this week. It was agreed that the CEO would circulate a final copy by email, ensuring this is sent out for consultation before the end of January 2020, as required by the 2007 Act.
- 6.9 It was also noted the consultation period concluded at 12noon on 18 March 2021, with a full update being provided to the March Board Meeting.
- 6.10 Members thanked the CEO and SMT for their explanation to the papers presented.

11.07am comfort break, meeting resumed at 11.14am

7. Q2 Long Term Trends 2020/21

- 7.1 The DoR spoke to the paper presented and Members noted the earlier update given in the Key Issues paper, relating to resourcing and productivity with some staff on reduced targets due to current lockdown restrictions. The JT is relatively consistent, with only one area for improvement, at Investigation stage, where there is a wait on incoming practitioner files. This is being monitored and actioned by IMT. It was noted that there are no cases waiting to be allocated, other than those mentioned at Investigation stage.
- 7.2 Members sought clarification on the productivity split reported. The CEO confirmed for the purposes of this report, it included all determination decisions. Following a free and frank discussion around trends YoY, where Members suggest it would ease the reporting if actual figures were also shown in the graph data. The CEO agreed this could be included, however as processes have changed and it might be difficult to compare YoY trends. This explanation was noted by Members.

8. Management Information to end December 2020

- 8.1 The DoR spoke to the paper presented and advised the incoming cases for end of December was 94, with WIP being 375 to date.
- 8.2 The Chair thanked the DoR for the explanation to both papers presented.

9. Q2 Appeals Update 2020/21

- 9.1 The DoR spoke to the paper presented and confirmed that the Legal Chairs had received a copy of this paper from the IMT Lead on Appeals in advance of Board. Members also noted the earlier update given in the Key Issues paper relating to the Appeal Hearing.
- 9.2 The Legal Chairs confirmed having being involved in the new 'sprint' process, they all agreed there has been positive engagement by SMT/IMT to review the method of reporting to Board. This includes: the new layout presented; detailing instructed counsel; costs; and incorporating any learning points.
- 9.3 Lay Members agreed the new format was clear, concise and well presented. Members were also reassured to see the breakdown in fees quoted presented in the paper.
- 9.4 Members noted an update on the Legal Chairs Oversight 'sprint' would be given at the next meeting.
- 9.5 Thanks were extended to the Legal Chair, DoR and IMT Lead on the revised Appeals paper presented.

10. Q2 Finance Report to 31 December 2021

- 10.1 The DoBP spoke to the paper presented and reported the current position as at 31 December, is showing overall, income is ahead on the year date to budget by £31,470 and expenditure is showing a saving of £235,930.
- 10.2 Members noted the Complaints Levy is currently £24,800 ahead of the budget due to the reduction in bad debt provision, which includes the monies received from Lockton's. The Chair enquired how many of the firms listed in the bad debts provision were still trading. It was noted the DoBP did not have this information available but agreed to follow this up with the FinO and report to Board. The CEO confirmed that all legal avenues were being actively pursued by FinO to recover costs and this was aiding the pay outs from Lockton's as we are able to provide evidence that all avenues have been exhausted in the pursuance in the recovery of monies by the SLCC. The DoPP agreed this was the case.

Action	Owner	Due Date
DoBP to clarify how many firms listed in the bad provision were still trading and update the Board.	DoBP/FinO	By 26 March 2021

- 10.3 The DoBP advised that the Trade and Other Receivables has reduced from previous months, as we received the balance due from the LSS on 1 December for the remaining 50% of 2020-2021 Levy Invoice (£1.8m).
- 10.4 Members noted the Balance Sheet value of £2,894,700 as at 31 December. Members confirmed a full discussion took place at AC relating to the IT and staff costs, in particular, the NVT/IT server costs.
- 10.5 The DoBP advised the projected outturn for 2020-2021 has altered for a number of reasons and are now forecasting, income will be ahead of the original budget by £23,601, with expenditure having a saving of £255,331. This will result in a forecast surplus of £278,932.
- 10.6 It was acknowledged that the SGvt pay deal, due for implementation in April, was not announced until later this week and the DoBP would be attending the briefing.
- 10.7 The Chair thanked the DoBP for the explanation to the papers presented.

11. Q2 Customer Feedback 2020/21

- 11.1 The DoBP spoke the paper and advised Q2 customer feedback results from the Survey Questionnaires has been presented in a different format. This follows feedback from Board and Consumer Panel, which led to an action to amend reporting in this year's Op Plan. Members acknowledged the new format provides them with more information and agreed the new layout was clearer and easier to understand.
- 11.2 Members noted that the response rate was down YoY in Q2 from Q1, which was disappointing. The new layout also showed the response rates of cases being closed at the various different stages of the process for Eligibility, Investigation and Determination, but not at Mediation. It was agreed by SMT/IMT and to ensure consistency in reporting, the same Survey Questionnaire would be issued to all cases closed at Mediation in Q3 on.
- 11.3 Members considered the free text comments, in particular, the one stating: "there was no extension of time given by to respond". The DoBP confirmed, this had been reviewed by IMT, and extensions had been given to numerous deadlines throughout the process, on this particular case.
- 11.4 Members were pleased to note compliments received in Q2 had increased YoY.
- 11.5 Members confirmed they were content with the new layout presented and thanked the DoBP for the update provided.

12. Risk Register Summary

- 12.1 The DoBP spoke to the paper presented and advised following discussion at the AC, it was agreed Risk 8 would be removed, with a caveat of it being re-added at a later date, if required. Members also noted the remaining Risks were renumbered accordingly.

- 12.2 The DoBP gave an update on the current Risks. Members noted Risk 4 needed amended to ensure that the Summary Sheet and Detailed Information Sheet matched in relation to the Gross (Inherent) Risk figures. The DoBP apologised for this oversight and agreed this would be amended.

Action	Owner	Due Date
DoBP to amend Risk 4 confirming the figures within the risk.	DoBP	ASAP

- 12.3 Members noted the paper presented and thanked the DoBP for their update.

13. Q2 HR Update

- 13.1 The DoBP spoke to the paper presented and advised the current staffing was 8.84FTE compared to budget. Members noted recruitment had concluded on: the Oversight and Assurance Manager; and the maternity cover for the FacO roles. Feedback was being gathered on the Induction process, as it had been conducted differently due to lockdown restrictions. The DoBP advised an offer has been made on the Marketing and Communication Officer role, with an anticipated start date of 22 February.
- 13.2 The DoBP also reported that training has continued during lockdown, and in particular, the Maintaining Wellbeing Sessions run by SAMH, were well received by staff.
- 13.3 Members noted that the Staff Survey results response rate was 87% of employees, this shows a rise of 15% on 2019/20. Members sought clarification on the comparison questions that were not asked this year and whether they would be removed/reviewed for the next Staff Survey. Following discussion, it was agreed that to enable further expansion, a 'free text box' should be added, if these particular questions were asked in future Surveys.
- 13.4 Members noted the other updates within the paper presented and thanked the DoBP for explanations to the paper presented.

14. Update from Audit Committee

- 14.1 The DoBP spoke to the paper presented.
- 14.2 Members of the AC confirmed that the DoBP had provided an accurate overview from the recent AC meeting, along with the earlier updates on the Budget Consultation and Risk Register.
- 14.3 Members sought clarification on the circulation of the AC Minutes. The DoBP apologised and confirmed, this had been delayed due to the timing of the AC Meeting just taking place prior to the issuing of the Board papers. It was agreed the Secretariat would circulate these following today's meeting.

Action	Owner	Due Date
Secretariat to circulate the approved AC Minutes to all Members.	Secretariat	26 January 2021

- 14.4 The Chair thanked the DoBP and AC Members for their updates and the paper was noted as read.

15. Q2 2020/21 Operational Plan updates

- 15.1 The DoPP spoke to the paper presented and gave an update on projects to date. Members noted the RAG rating had been expanded and included which they found helpful.
- 15.2 Members sought clarification on the 29 projects that are underway and reported as 'green', when some projects are being deprioritised due to Covid-19. Following discussion, it was agreed that the chart information presented in Q3 would be amended to include the number of 'de-scoped' projects within the report.

Action	Owner	Due Date
DoPP to amend chart information to include the number of 'de-scoped' projects within the data.	DoPP	23 March 2021

- 15.3 The Chair thanked the DoPP for their update to the paper presented.

16. Consumer Panel Update

- 16.1 The DoPP spoke to the paper presented and gave a brief overview of the recent Consumer Panel Meeting.
- 16.2 Members thanked the DoPP for this update and noted they were encouraged that the Consumer Panel's views were sought on the development of a set of telephone call standards. Members were also keen to ensure that these linked to the earlier points raised on consumer accessibility.
- 16.3 The Chair sought clarification on the Consumer Panel engagement, in relation to the change in deadlines to the Robertson Review. The DoPP confirmed the Consumer Panel were fully engaged and very keen to have an independent voice in this process, they also feed into internal processes which is very helpful,

17. Board Actions Register

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

18. Minutes of Previous Meeting from 8 December 2020

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

19. Chair's Report

- 19.1 The Chair advised there had been no external meetings.

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 22 March 2021.
 - Board Meeting will take place at 10am on Tuesday 23 March 2021
- 20.2 The Chair advised it was anticipated that these meetings will continue to take place remotely due to SGvt guidelines.

21. AOCB

- 21.1 The Chair confirmed the output of the Private Member discussion at the Board Development Session, in that, it was agreed from 1 April 2021, Member S Hesp would replace Member M Hynd as the AC Chair and Member D Loney would join the AC as a member immediately.
- 21.2 It was also agreed that Board would depart from the RC ToR, in that, Member S Hesp would continue to serve as a member of both AC and RC until the appointment of new Members had been appointed. Membership of both committees would be reviewed thereafter by the Chair.

22. Chief Executive's Report

- 22.1 The Board noted the paper presented.

12.07pm the CEO, DoBP, DoPP and Secretariat left the meeting

Private Member only session, after which the Chair advised the Secretariat on item 23.

23. Chief Executive's Six Month Performance Review

- 23.1 The Chair confirmed that Members noted and agreed with Chair's presented paper on the proposed 6-monthly Appraisal for the CEO during their private session.

24. Review of the Meeting

- 24.1 With no other business the meeting concluded.

12.25pm Board Meeting ends