

**MINUTE OF A MEETING OF THE MEMBERS OF THE SCOTTISH LEGAL COMPLAINTS
COMMISSION: 10.00AM TUESDAY 8th DECEMBER 2020
VIA: ZOOM due to current lockdown situation**

PRESENT:

LAY:

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

LAWYER:

Denise Loney
Amanda Pringle
Kay Springham

Apologies:

Emma Hutton
Caroline Robertson (DoR)

In attendance:

Neil Stevenson (CEO) (Items 1-16)
Louise Burnett (DoBP) (Items 1-16)

[REDACTED] (Secretariat – minutes) (Items 1-16)
Vicky Crichton (DoPP) (Items 1-16)

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 Member, Emma Hutton and from the DoR, Caroline Robertson.

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 discussed the impact the rollout of the new vaccine would have on staff attending the office for essential work. Following this discussion, it was agreed SMT were not required to amend the current Covid-19 Risk Assessment Policy until further guidance was received from SGvt.
- 4.3 Law Society / Master Policy (Locktons) –The DoPP advised several outstanding payments have now been paid. However, it was acknowledged that some longstanding payments were still outstanding. The DoPP advised they were in discussion with Locktons to try and move these cases forward. Members sought clarification as to whether these issues of non-payments related to both solicitors and advocates. The DoPP advised these solely relate to solicitors within the profession. The CEO explained that these relate to cases where service elements have been upheld/part upheld against a firm, former firm or an individually named solicitor. Members sought an update on the total payment recouped to date. The DoPP agreed to circulate this information after the meeting.

Action	Owner	Due Date
DoPP to calculate total payments recouped to date and update the Board by email.	DoPP	ASAP

- 4.4 The DoPP also advised that they will be working with the LSS Insurance Committee as an ‘observer’ of the upcoming Master Policy procurement round. Members noted dates had been set for future meetings and looked forward to receiving an update in due course.
- 4.5 IT Update – Members noted the plan to rollout Microsoft Teams to all staff and sought clarification if this would also be rolled out to Members. The DoBP confirmed it was the plan once all staff are trained. Members also sought clarification on the implementation date of the automatic File Manager destruction in Newpro now that the servers had been switched over. The DoBP advised that ‘batch’ archiving would commence on the ‘live’ system next week, with full automation commencing early next year.
- 4.6 Digital – The DoBP advised that of the 10 staff involved in the remote telephone system (VOIP) trial, only 3 remain to be trained. Members also sought an update on the dual screen sprint trial and whether this would be rolled out to Members. It was noted that some staff are trialling an additional desktop style screen and others are trialling a tablet style screen (which could be folded and easily stored when not working), dependent on their own personal circumstances. The DoBP advised that the trial was still ongoing but once fully tested it could be rolled out to all staff and Members who wished.
- 4.7 Appeals Issue – The CEO gave a brief update on the current Appeals process of what happens when an Appeal has been intimated to the SLCC. It was noted that when an Appeal is made, the relevant RPOs are notified, and under the Act can become a party to an Appeal. This has previously happened but is rare. There have now been two instances where the CoS have requested that we communicate with the RPOs before agreeing to a Joint Minute to bring their view to the Court. This is not a statutory requirement and could be giving the professional bodies an additional role in relation to a system which was meant to be independent of them. The Court suggests this could be an ongoing future requirement but does not deal with the complexities. The CEO is in ongoing liaison with the Chair, along with further legal advice being sought. Following a free and frank discussion, it was agreed the CEO would consider the points raised and circulate a copy of legal advice to the Legal Members and provide an update at the next Board Meeting.

Action	Owner	Due Date
CEO/SMT share legal advice with Legal Chairs and report back to the Board.	CEO/SMT	ASAP & 26 January 2021

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

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

- 5.1 The Chair reported Members were being asked to formally agree and approve the Draft Budget presented, along with the draft Operating Plan. The CEO reiterated the draft Operating Plan document would formally come back to the January Board for final approval
- 5.2 Draft Budget – The DoBP spoke to the paper presented and advised that the FMR for December would be presented to the January Board Meeting. It was noted by Members that the 2021-2022 Budget and Levy presented was based on discussions at the November Workshop.
- 5.3 The DoBP advised that early additional savings had been made in relation to staff salaries. The Chair sought assurance that SMT were on track with the financial projections to date. The DoBP confirmed they were.
- 5.4 Draft Levies - The DoBP advised that the LSS are predicting a small increase in the number of practicing certificates being issued from last year and this could have an impact on the General Levy income received from the LSS. Following discussion with the LSS, it was agreed that the figures would remain the same as intimated this year, as other factors still made a flat line prediction prudent. It was agreed on the current data that there would be a Levy freeze, meaning the 2020-2021 Levy rate would be used again for the 2021-2022 levy, unless circumstances had changed further by the time of the January Board meeting. This would see the General Levy being set at £492.
- 5.5 Board formally agreed (again, unless there was a material change in circumstance by the time of the January Board):
- | | |
|------------------------------------|--------|
| 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 |
- 5.6 The Board also approved the list of suggested discounts from the General Levy for different practitioner groups.
- 5.7 The CEO reminded Members of the timescale and process, in that, the budget must be out for consultation by the end of January 2021, with responses received being published by end of March 2021, and the final budget must be laid before Scottish Parliament in April 2021.
- 5.8 Draft Operating Plan Consultation Document for 2021/22 – The CEO spoke to the paper presented. Following a free and frank discussion it was agreed that the CEO would review point 6.10 and add the suggested typographical changes.
- 5.9 Members sought clarification on reasons supplied by firms in their failure to supply files to the SLCC. The CEO advised that the DoPP and the Oversight Team (OS Team) were working with CRMs to understand the issues of supplying files, particularly in relation to 3rd party complaints. It was acknowledged that the LSS have also issued guidance to the profession on this matter. It was also noted that members of the FoA do not keep ‘physical’ files however, they do still have to respond to complaints raised with them by the SLCC. However, the obtaining of files remains an issue and several Sct17 notices have been issued to firms as a result. Members acknowledged the additional costs of pursuing files will impact on the cost per case figure.
- 5.10 It was agreed the DoBP would also review point 6.5, which relates to Audit Scotland fees which are outwith our control, as they are set by Audit Scotland.
- 5.11 Following discussion, the Chair suggested the draft document be reviewed for typographical changes and to ensure plain English is used, along with appropriate caveats being used throughout the document. It was agreed this would be brought back to the January Board Meeting for a final review.

Action	Owner	Due Date
CEO to redraft point 6.10 and DoBP to reword 6.5 following today’s discussion and provide an updated draft document to the January Board meeting,	CEO/SMT	26 January 2021

5.12 Members thanked the CEO and SMT for their explanation to the paper presented and agreed this was a very good early draft. The CEO stressed, that whilst this document would be amended to reflect discussions today, every paragraph would be reviewed by SMT and requested the document is fully considered for the January Board.

11.11am comfort break, meeting resumed at 11.19am

6 Management Information to end November 2020

- 6.1 In the absence of the DoR, the CEO spoke to the paper presented and advised the incoming cases for end November was 86, with WIP being 394 to date.
- 6.2 Members had a free and frank discussion on productivity. The CEO explained that some CIs were still in their training phase, having been moved from Eligibility to Investigation and others were also working on specific projects, i.e. Digital Specialist. It was agreed this would be monitored by SMT and discussed at the January Board.
- 6.3 The Chair thanked the CEO for the explanation to the paper presented.

7. Risk Register Summary

- 7.1 The DoBP spoke to the paper presented and gave an update on current Risks. Members noted the update on Risks 1, 2, 4 and 13. Following discussion Members suggested that Risk 7 also be reviewed for update at the January Board.
- 7.2 The Chair enquired if any additional risks needed added from the Working Party. It was agreed not at present.
- 7.3 Members noted the paper presented and thanked the DoBP for their update.

8. Health & Safety Annual Policy Statement Review

- 8.1 The DoBP spoke to the paper presented and gave an update on the Annual H&S Policy Statement to Members.
- 8.2 Members noted the additional H&S resources applied to the office due to Covid-19 and enquired if any Risk Assessments (RA) required update due to Covid-19 and staff returning to the office. The DoBP advised the Covid-19 RA is reviewed every 6wks and it was agreed the H&S Statement would be reviewed to include reference '*to dealing with unprecedented pandemic situations*'.

Action	Owner	Due Date
DoBP to amend the H&S Policy Statement to include a reference to dealing with the Covid-19 pandemic.	DoBP	ASAP

- 8.3 Members were pleased to see a new Fire Safety video had been shared with staff and Board.
- 8.4 Members sought clarification for the delay to PAT testing, as the Emergency light testing took place as planned. The DoBP advised this was delayed due to the rollout of new IT kit, as staff have been given laptops this will through time, allow for base units within the office to be removed. SMT agreed these would be removed, then PAT testing carried out on all remaining electrical appliances. It was agreed H&S paper should be amended to reflect this explanation.

Action	Owner	Due Date
DoBP to amend the Annual H&S Report to reflect this further explanation.	DoBP	ASAP

- 8.5 Members sought clarification as to who 'owns' the recommendations made within the annual H&S report. The DoBP confirmed this was the FacO, currently being covered by maternity cover, and herself, as Manager for this area. The Chair also reiterated that this was also overseen by the H&S Committee.
- 8.6 Members enquired as to how RAs were carried out with staff who are currently WFH, for example, do you obtain external H&S advice for this assessment. The DoBP advised that staff had been asked to complete an online DSE assessment at home, this was from the same provider as we used for office DSE assessments, but was a specific version they produced for home working. Staff are also being encouraged to report any accidents that

they have in their own home while WFH. H&S is still being monitored but it is being captured differently. To date no external H&S advice has been obtained, it was noted one member of staff had been referred to OH. Members acknowledged the concept of WFH was not new but WFH for this length of time was unprecedented and encouraged SMT to ensure that all risks are covered.

8.7 Members thanked the DoBP for explanations to the paper presented.

9. Scheme of Delegation

- 9.1 The DoBP spoke to the paper presented and advised Members that the document had been updated to amend references to the role of the Oversight Manager (OM) to the new job title of Oversight and Assurance Manager (OAM).
- 9.2 The second change reflected, includes an addition at Section 6 Complaints – 23(2)(c) *Handling complaint – discretionary decision to reinstate a discontinued investigation*, this had been omitted and is a decision made by a DC. The DoPP explained that whilst these instances would be rare, the SoD needs to reflect the decision-making process.
- 9.3 Members also agreed to the update to the decision maker in Section 6 Complaints - 36 *Publication of guidance and recommendations* from DoPP to OAM.
- 9.4 Member also suggested that a further addition be included at Section 6 Complaints – 4(1) and (3) – to include all ‘exceptional reasons’ used to accept a complaint. It was agreed the SoD should be amended to reflect this addition.

Action	Owner	Due Date
DoBP to amend the SoD to accept suggested changes Members.	DoBP	ASAP

9.5 Members thanked SMT for their update.

10. Engagement with the Legal Profession

- 10.1 The DoPP spoke to the paper presented and reiterated that this focussed on the profession through targeted outreach consultation. It was noted the paper focuses on 1st tier complaint handling using presentations and how this is delivered via different mediums. One option was to speak to firms on a 1-1 basis, or in groups using face-face meetings, however this stopped due to Covid-19, however the OS Team have engaged with the profession by delivering outreach to organisations via lots of different ways, using Zoom, Teams etc.
- 10.2 The DoPP advised that 10 CRMs met last week, along with representatives from the Advocacy profession and a free and frank discussion ensued, which was very helpful. The OS Team will also be working in partnership with the LSS on their New Partner Practice Management Course next year, and they have also offered to run sessions at a few their thematic conferences (e.g. conveyancing, private client). Members were pleased to hear this.
- 10.3 Members were interested to note that OS Team were going to be developing short podcasts and wondered when these would be available. The DoPP anticipated the short audio clips/guides would be available through social media early next year.
- 10.4 The Chair enquired if the CRM meeting had representations from predominantly large or small firms. The DoPP advised there was a mix of business sizes and it also contained a geographical mix. The DoPP also advised that the discussions were very useful to aid the development of future advice for firms in assisting them to deal with complaints.
- 10.5 The Chair thanked the DoPP for their update to the paper presented.

11. Board Actions Register

- 11.1 Members noted the ongoing Actions and agreed all other completed actions should be removed from the register.
- 11.2 Members sought an update on Action 262 and wondered if the new VOIP system would be able to capture some of this data. For example, what type of call was received, was it an enquiry or did it require signposting etc. The DoBP explained it would not, as the new VOIP system was utilising the current phone system, so will only be able to capture

current data. The CEO confirmed that only serious enquires are recorded on Newpro, via the Complaint Form, at present we do not capture the data of general enquiries or signposting to another organisation. Currently Newpro is not setup for capturing this data, however CSOs do log 'rough' data but not detailed information or figures.

12. Minutes of Previous Meeting from 20 October 2020

- 12.1 The Minute of the Board Meeting was noted and approved as read.
- 12.2 Members sought an update on point 14.2 within the minute relating to Risk 10 and the planned IA on Appeals. The DoBP advised that the IA Report has not been received to date but will be circulated to Members when received.

13. Chair's Report

- 13.1 The Chair formally advised Members that he had been appointed by SGvt to be Chair of the Environmental Standards Scotland Committee. This appointment commenced on 1 December 2020 and his Register of Interests would be amended to reflect this.
- 13.2 The Chair also reported that both he and the CEO had met, virtually, with the SGvt Minister, Ash Denham.

14. Date of Next Meetings

- 14.1 Members noted the dates of the next meetings as:
 - Board Development Session will commence at 2pm on Monday 25 January 2021.
 - Board Meeting will take place at 10am on Tuesday 26 January 2021
- 14.2 The Chair advised it was anticipated that these meetings will continue to take place remotely due to SGvt guidelines.

15. AOCB

- 15.1 None.

16. Chief Executive's Report

- 16.1 The CEO gave a brief overview of meetings to date. Members were intrigued by the meeting on 'What happens when Boards merge'. The CEO explained this was a general CPD for him, but the topic had been picked by the providers as post Covid-19 economic or political drivers could make this more likely. There were speakers from successful and less successful mergers, who shared general learnings, which was interesting.
- 16.2 The Board noted the paper presented.

12noon the CEO, DoBP, DoPP and Secretariat left the meeting

A Private Member only session took place.

17. Review of the Meeting

- 17.1 With no other business the meeting concluded.

12.15pm Board Meeting ends