

**MINUTE OF A MEETING OF THE MEMBERS OF THE SCOTTISH LEGAL COMPLAINTS
COMMISSION: 2.00PM MONDAY 26th JULY 2021
VIA: ZOOM due to current lockdown situation**

PRESENT:

LAY:

Jim Martin (Chair)
Sara Hesp
Niki Maclean
Sarah McLuckie

LAWYER:

Frank Gill
Denise Loney
Kay Springham

Apologies:

June Andrews
Morag Sheppard

In attendance:

Neil Stevenson (CEO) (Items 1-24)
Louise Burnett (DoBP) (Items 1-24)
Caroline Robertson (DoR) (Items 1-24)

[REDACTED] (Secretariat – minutes) (Items 1-24)
Vicky Crichton (DoPP) (Items 1-24)

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

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, DoBP, DoR, DoPP and Secretariat joining the meeting at 2.15pm.

1. Welcome

- 1.1 The Chair welcomed everyone to the Board meeting.
- 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, June Andrews and Morag Sheppard.

3. Declaration of Interests

- 3.1 The Chair noted the standard declarations of interest declared by Frank Gill, Denise Loney and Kay Springham in relation to any pecuniary interest with regards to budgetary discussions.
- 3.2 The Chair also noted there would be an additional note of a declaration of interest for the item on member expenses. Again, this was noted by the Board and recorded at point 13 within these minutes.

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 Covid-19 update – The Board noted that the workshop session tomorrow would provide space for a full discussion on the current position and future planning, as well progress against the WP outcomes. In terms of formal governance there were no additional issues to note in this meeting, with the current situation much as it was at the time of the last formal report.
- 4.3 Joint work with LSS on Interim Improvements to the Complaints System – The DoPP gave Members an update on the current position. It was noted that the SGvt analysis of responses to the consultation on the amendments to the 2007 Act that can be made by statutory instrument, was published by SGvt on 14 July. The DoPP advised that the drafting changes would go forward, led by Officials before laying in Parliament, possibly by the end of the year. The Chair sought clarification timescales implementing changes within the SLCC, once a statutory instrument had been passed. The DoPP anticipates this would into the next operating year, possibly May/June 2022. Following discussion, it was agreed the CEO and DoPP would continue to engage in this process, and provide Board with further updates at the September Conference Call meeting.
- 4.4 Fit for Future / Scottish Government (SGvt) Working Party – The DoPP gave Members an update on the current position. Members noted SGvt were aiming for an autumn publication of the consultation on models of reform. The DoPP advised that this timescale could mean the developing of a consultation response and the associated communications could be at the same time, as parliamentary scrutiny or implementation of the interim changes, and potentially ABS too. It was agreed the CEO and DoPP will continue to monitor and engage in this process and provide Board with further updates at the September Conference Call meeting.
- 4.5 Law Society / Master Policy (Locktons) – The DoPP advised that progress was continuing with LSS and Master Policy in the pursuit of redress for parties. It was noted the remaining cases were more complex and taking longer to obtain redress for parties. Members sought clarification on whether the recovery of monies included complaint levies. The DoPP confirmed it can do in certain cases and in some historical cases MP have paid out on complaint levies. Members also requested a copy of the MP tender process report. This was agreed by the DoPP.
- 4.6 ABS – The CEO advised that LSS have submitted a revised scheme rules to the Minister, and LSS have suggested to us that SGvt Officials are working towards the end of the year for authorisation. The CEO gave an overview of process, timescales and the impact this will have on the complaints process. It was noted this will also need updated on the website. Following a free and frank discussion, it was agreed further information would be brought to the September Board Conference Call to allow for further discussion.
- 4.7 Oversight – The DoPP advised as part of the improvement work on engagement with RPOs, the Oversight Team have recently published a statement on our approach to oversight, which is on our website. Members were pleased to note this statement will guide the work in this area.
- 4.8 Political Activity – Members noted the new Ministerial team has now been confirmed with, Keith Brown becoming Justice Secretary and Ash Denham remaining as Minister for Community Safety and retaining responsibility for legal services. The DoPP advised two new committees have been established, with the justice portfolio split over the two – the Criminal Justice Committee and the Equalities, Human Rights and Civil Justice Committee. The DoPP noted at the moment it was not clear which committee would lead on issues like reform. The DoPP also advised there had been a positive response from the MSP guide that was sent to all MSPs following the election.
- 4.9 Cyber Update – The DoBP provided an update on recent cyberattacks on three other organisations as part of the tracking cybersecurity AI. Members sought clarification on whether our current insurance policy included cybercrime cover. The DoBP confirmed it did and provided Members with an update from the AC meeting on this matter. It was also agreed the DoBP provide Members with a copy of the AC paper.

- 4.10 Accessing contact information for Solicitors – The CEO confirmed they had obtained legal advice which confirmed our interpretation of the position on this matter. The CEO advised that a meeting has been arranged with the LSS on 13 August. It was agreed an update would be provided at the next Board meeting.
- 4.11 Public Sector Leadership Summit on Race Equality – The CEO gave an overview of the output from the draft report which we have been asked to provide comment on. Unfortunately, due to the short notice of the dates we were unable to attend the event which took place in March, which was in response to recommendations from the Equality and Human Rights Committee of Parliament. Members noted that SGvt also requested that we consider formally agreeing to be part of a ‘joint commitment’. Following discussion, it was agreed that SMT should respond to SGvt noting our formal acceptance of the joint commitment.
- 4.12 All other updates within the paper were noted by Members. The Chair thanked the SMT for their updates to the paper presented and requested that updates be provided to the October Board Meeting.

Action	Owner	Due Date
DoPP to circulate a copy of the MP tender process report to Members when available.	DoPP	ASAP
DoPP to circulate a copy of the AC Insurance Policy paper to Members.	DoBP	By 31 July 2021
SMT to provide updates on Key Issues to Board at their next meetings, in particular on: Joint work with LSS on Interim Improvements to the Complaints System; Fit for Future / Scottish Government (SGvt) Working Party; and ABS.	SMT	by 13 September 2021 and 19 October 2021

5. Planning Cycle for 2022/23 Operating Plan and Budget Timetable

- 5.1 The CEO spoke to the paper presented. Members noted they were not being asked to make any formal decision as further discussion would take place at the September, October and November Board workshops, with the final decisions being taken at the December Board.
- 5.2 Members noted that whilst there was an emphasis on digital, there was no specific theme of cybersecurity and secure digital communication. The CEO agreed that this should be developed as a standalone theme, rather than incorporated within digital as at present.
- 5.3 For the benefit of new Members the CEO explained the predictive model, the use of historic trends and impact that Covid-19 has had incoming numbers, and also that the predictive model involved the services of an external statistician. Members wondered whether there had been any specific rise in trends within certain business areas, ie crime, conveyancing or matrimonial complaints. The CEO agreed it would be useful to carry out this analysis again, to see if there were any changes to specific business area types. The CEO intimated there might be a reduction in criminal complaints, due to there being reduced court service at present. However, it was agreed this might not be reflected in the data.
- 5.4 The Chair reiterated the final Budget and Operating Plan would be issued for consultation by the end of January 2022 at the latest. The Chair advised it has also been agreed the four newly appointed Members will observe these discussions from October onwards, thus ensuring they are familiar with the current Boards decision making process.

6. Q4 Long Term Trends and Management Information to 30 June 2021

- 6.1 The DoR spoke to the paper presented and advised CIs have been moved within processes, ensuring that the performance issue at Eligibility was addressed, this in turn allowed for an additional resource move to cover the vacancy within Determination.
- 6.2 Members sought an update on the QA process and wondered whether the Member feedback was aiding the quality targets being met or not by CIs. Members thought with lower case numbers there would have been an improvement in quality. The DoR advised that whilst there was more emphasis on QA, more time being allocated to this process by

IMT/SMT. It was acknowledged all CIs were now fully established in their roles and are subject to various different levels of QA checks by their managers. The DoR confirmed the output of the QA findings would be shared with Board. The CEO noted that the Op Plan for this year has a review of the QA system in it, which was due to be brought to Board later in the year. Following a free and frank discussion, on how the output of learnings was shared with staff and Board, it was agreed that an update on QA and how the input of members was used would be brought to the October Board Meeting either as a paper or in the key issues briefing.

Action	Owner	Due Date
DoR to provide an update paper/key issues briefing on the learnings from QA feedback with Board.	DoR	19 October 2021

6.3 The Chair sought an update on the 'oldest' cases in the system. The DoR confirmed there were currently 6 cases in this category, the oldest being a 2012 case which is still with the LSS and of the 6, two cases were closed in July.

6.4 The Chair also sought an update on the S17 issue receiving firm's files. The DoR reported that whilst there had been a slight improvement, we have had to instruct our Legal Agents to pursue with one case, which is now moving to motion, as it would appear there have been no submissions made, so the case is progressing. It was agreed the DoR would keep Members up to date on this issue.

Action	Owner	Due Date
DoR to provide Board with an update on S17 issue being pursued by Legal Agents.	DoR	ASAP

7. Q4 Appeals Update

7.1 The DoR spoke to the paper presented and advised Members, D Loney and F Gill had met with the IMT/CIM lead on Appeals, where they discussed the current Appeal cases and reviewed the draft paper presented today.

7.2 Member, F Gill advised that the IMT/CIM lead would also include information on unrecovered expenses in the next Board update paper. Following a free and frank discussion, on the diversity of instructing counsel. It was agreed that the current request for the Legal Panel to list three Advocates to be instructed, with one of the three being female, should be brought to the Board for update next year. The Legal Chairs agreed with this approach.

Action	Owner	Due Date
DoR/CIM Appeal Lead to continue with the current instructing of counsel in the Appeals Policy paper to ensure that female diversity of instructing counsel is captured and for this to be brought back to Board for review end of 2021/22.	DoR	Q4 reporting 2022

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

8. Q4 Finance Report to 30 June 2021

8.1 The DoBP spoke to the papers presented and reported Income was £83,056 ahead of Budget, with Expenditure showing a saving of £462,550, thus resulting in an increase to the reserves position by £545,621.

8.2 The DoBP reported that staff salary costs were £38,958 under budget for the month, and £338,240 over the year, this was due to significant savings within staff costs and not recruiting on current staff vacancies.

8.3 The DoBP also reported IT costs continue to show an overspend of £43,732, this relates to the purchase of headsets and wireless keyboards for employees and the continued additional IT support from NVT and to cover other licenses allowing staff to work remotely at home.

8.4 Members noted the other figures presented by the DoBP.

- 8.5 Balance Sheet - The DoBP advised the balance sheet value of £1,204,937 as at 30 June 2021, is represented by £659,316 held in the General fund, plus a surplus on Income and Expenditure Statement to date of £545,621. The DoBP also advised that further consideration would also be given to the bad debt provision in the balance sheet and whether some of the bad debt would be written off. The DoBP reported this would be considered and reviewed as part of the yearend figures in the final accounts. The Chair enquired when the final accounts would be presented to Board. The DoBP advised that the EA commenced on Monday 9 August, following which once these have been audited and signed off, Board would be updated by email.
- 8.6 Surplus – The DoBP reported the current projected yearend surplus was £545,621, and this would result in an increase to reserves from £659,316 to £1,204,937. Members noted this matter had also been discussed at the recent AC meeting. The DoBP reported in the 2021/22 budget the equivalent of 3 months expenditure would be £953,619, which would leave an additional £251,318 within reserves. The AC recommended Board discuss this fully but suggestions were it could be:
- kept within reserves but ring fenced, for a potential cyber-security attack;
 - utilised as investment for IT/Office relocation costs linked to the hybrid working model; or
 - simply retained in reserves.
- 8.7 The AC Chair reiterated that Audit Scotland recommend holding three times the value of expenditure in reserves, with the surplus being utilised across the organisation. Members discussed the implications of holding this extra monies in reserves. Following a free and frank discussion, on the feasibility of increasing the cybersecurity insurance cover and the costs associated with this. The Chair suggested that SMT consider all points raised by Members and for this to be discussed further when the yearend accounts have been finalised.

Action	Owner	Due Date
SMT to consider all points raised by Board relating to any potential surplus monies once yearend accounts have been finalised.	CEO/DoBP	19 October 2021

- 8.8 The Chair thanked the DoBP and CEO for the explanation to the papers presented.

3.35pm comfort break, meeting resumed at 3.45pm

9. Q4 Customer Feedback Update

- 9.1 The DoBP spoke to the paper presented and gave an update of Q4 response rate, which was 21%. Members noted there was a positive response on a CIs explanation of the process, one comment received also mentioned having mental health issues, unfortunately, as the respondent did not provide a case reference number, this could not be followed up by IMT. The DoBP also reported the number of compliments received this quarter was down slightly.
- 9.2 All other updates within the paper were noted by Members.

10. Risk Register Summary

- 10.1 The DoBP spoke to the paper presented and gave an update on the current Risks and advised, Risks 7 and 13 had been reviewed and reduced following discussions at the recent AC meeting.
- 10.2 The AC Chair advised Risk 4 was currently the highest risk, which related to cyber security, all other risks remain unchanged.
- 10.3 Members noted the paper presented and thanked the DoBP and AC Chair for their update.

11. Q4 HR Update

- 11.1 The DoBP spoke to the paper presented and gave an overview of the current staff FTE numbers and explained staff secondments and maternity leave positions.

- 11.2 The DoBP reported on employee turnover, which was down YoY from last year, however short term sickness had increased slightly and this would be discussed by RC at the August meeting.
- 11.3 The DoBP gave a brief overview of the PCS pay claim, with the annual increment agreed as being implemented from April and paid in the staffs' May salary. The PCS have also submitted 8 local requests to be considered by SMT, one being changes to the Absence Policy, which would include a change from a 5-year rolling sickness period to that of 12 months.
- 11.4 Members noted that staff would be having their end of year appraisals and that the annual staff survey would be issued during Q1.
- 11.5 Members sought clarification on the increase in musculo-skeletal conditions and wondered if this was linked to staff working from home. The DoBP explained the reasons for this. Members suggested staff might wish to the use of a free App which gives you alerts to move about after 15/30mins of being sedentary. The DoBP agreed this was a good suggestion to share with staff.
- 11.6 For the benefit of the new Members the DoBP explained the vacancies 'on hold' are not required at present and also advised that two external recruitments had been conducted during lockdown for the Oversight Team.
- 11.7 Members noted the paper presented and thanked the DoBP for the update.

12. Update from Remuneration Committee

- 12.1 Members noted the paper presented.

13. Update of Members Expense Policy and Guidance and revised Members Expense Form

- 13.1 The Chair reminded Members that whilst they technically had a conflict, due to receiving expenses, they were required to approve the expenses policy, with independent scrutiny being applied through internal and external audit.
- 13.2 The DoBP spoke to the paper presented and advised, the Members Expense Policy had been updated to reflect discussions following the last Board Meeting. The DoBP also advised that the new current rates, reflecting the pay policy of SGvt in terms of these fees, as of July 2021, were: £31.14 per hour or £218 per day for Members and £46.00 per hour or £322 per day for the Chair.
- 13.3 Following a minor typographical change being made to the Members Expense Policy, Members approved the document. It was also agreed that the new Expense Form would be used by Members from July onwards.

Action	Owner	Due Date
DoBP to update the Members Expense Policy to incorporate the typographical change.	DoBP	By 31 July 2021
Secretariat to circulate a copy of the approved Members Expense Policy and updated Members Expense Form to Board.	Secretariat	By 31 July 2021

14. Update from Audit Committee

- 14.1 Members noted the paper presented and the DoBP gave an overview of the recent AC meeting. In particular, AC discussed the surplus reported in the FMR paper and the impact that had on reserves. Board also discussed this in detail earlier. It was noted that the IA presented papers on the IT Hardware Refresh and the PO App.
- 14.2 The AC Chair confirmed the meeting was very constructive and advised IA also presented their annual report to AC. It was noted that whilst the report concluded the Audit as 'reasonable', this was a good report by IA standards. The report also confirms that we have a framework of governance, risk management and internal controls that provides reasonable assurance regarding the effective and efficient achievement of objectives.
- 14.3 Members noted that the forthcoming planned work for 2021/22 was agreed, and this year would focus on:
- Hybrid Working/Return to Work;

- Oversight; and
- Cyber Security

14.4 The Chair thanked both the DoBP and AC Chair for their update.

15. Q4 2020/21 Operational Plan updates

- 15.1 The DoPP spoke to the paper presented and Members noted this provided the RAG rating for all projects in the current operating plan. The DoPP confirmed, following discussion at the May Board, where it was agreed, the previously Red rated project of the Consumer Panel Project 3: research, be re-coded Grey and subsequently decommissioned.
- 15.2 The DoPP also reported that of the 29 projects set for the year, all other 28 projects were Green and in line for completion by end of year. Resulting in the quarter end position that 100% of priority objectives were completed and 0% were not fully completed.
- 15.3 The Chair acknowledged the work of the Oversight Team in achieving this target.
- 15.4 Members noted the paper presented and thanked the DoPP for the update.

16. Engagement with Legal Profession

- 16.1 The DoPP spoke to the paper presented and gave an overview of the outreach work that had been carried out last quarter. It was noted by Members that due to Covid-19 restrictions the Oversight Team had to adapt to different ways of delivering outreach work, which was commended by Members.
- 16.2 The DoPP also reported the Oversight Team have developed good working relationships with the CPD team at the LSS and have now participated in a number of their sessions, including the March and June cohorts of New Partner Practice Management Course, and a session at the LSS Annual Conference in April 2021.
- 16.3 Members noted the paper presented and thanked the DoPP for the update.

17. Updated Rules for Consultation

- 17.1 The DoPP spoke to the paper presented and explained the reasons for the suggested update to the Rules was to help drive the digital change within the business, and to continue our interactions with the sector, as well as addressing a number of other issues to increase our process efficiency. It was acknowledged there may be a number of technical challenges to some of the proposals that will need to be considered before finalising the final version. However, it was hoped that through this consultation this will allow us to make some other holistic changes, to also include gender neutral language and plain English.
- 17.2 Following a free and frank discussion on the proposed changes to the Rules, it was agreed that Members would email any comments/suggested changes directly to the DoPP to be incorporated. The Chair clarified Members were content SMT progress with the Rules consultation during Q1. Members confirmed they were, but also suggested adding some additional explanations into the cover Policy Notes document. Following discussion, it was agreed that this would not be amended and that SMT would highlight any issues raised during the consultations process with Board.

Action	Owner	Due Date
SMT to proceed with the proposed Rules consultation and feedback any issues raised during the process with Board.	DoPP/SMT	Q1 and Q3

18. Consumer Panel Update

18.1 Members noted the paper presented.

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 18 May 2021

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

21. Chair's Report

21.1 The Chair advised there had been no meetings to report on.

22. Date of Next Meetings

22.1 Members noted the dates of the next meetings as:

- Board Conference Call will take place at 9am on Monday 13 September 2021.
- Board Development Session will take place at 2pm on Monday 18 October 2021.
- Board Meeting commence at 10am on Monday 19 October 2021.

22.2 The Chair advised it was anticipated that these meetings will continue to take place remotely due to SGvt guidelines, however should the guidance change Members would be advised accordingly.

23. AOCB

23.1 none.

24. Chief Executive's Report

24.1 The Board noted the paper presented.

4.35pm the CEO, DoBP, DoPP and Secretariat left the meeting

Private Member only session, after which the Chair advised the Secretariat on item 25.

25. Chief Executive's End of Year Review and 2021/22 Targets for CEO/SMT

25.1 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.

26. Review of the Meeting

26.1 With no other business the meeting concluded.

4.45pm Board Meeting ends