

**MINUTE OF A MEETING OF THE MEMBERS OF THE SCOTTISH LEGAL COMPLAINTS
COMMISSION: 10AM TUESDAY 31ST OCTOBER 2022 in the SLCC Boardroom**

PRESENT:

LAY:

Jim Martin, Chair
June Andrews
Jean Grier
Niki Maclean
Morag Sheppard
John Stevenson

LAWYER:

Lynne Collingham
Richard McMeeken

Apologies:

None

In attendance:

Neil Stevenson (CEO)
Vicky Crichton (DoPP)
[REDACTED] (HRA – minute)

Louise Burnett (DoBP)
Caroline Robertson (DoR)
[REDACTED] (Secretariat – part minute till 11.45am)

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
SDC – Service Delivery Complaints

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
BCP – Business Continuity Plan

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, HRA and Secretariat joining the meeting at 10.37am.

1. Welcome and Apologies

- 1.1 The Chair welcomed everyone to the Board meeting.
- 1.2 The Chair confirmed the agenda would be adjusted and it was agreed item 6 of the agenda would be taken next.
- 1.3 The Chair noted the formal Board meeting would be followed by an afternoon development session to start discussing budget assumptions and priorities.

2. Declaration of Interests

- 2.1 The Chair noted the standard declarations of interest declared by Lynne Collingham and Richard McMeeken in relation to any pecuniary interest with regards to budgetary discussions and the reform consultation process/response by the SLCC.

3. Notes from 12 September 2022 Board Conference Call and Matters Arising

- 3.1 The notes of the Board Conference Call were noted and approved as read.

3.2 Members were reminded that the Minutes of the July Board Meeting were approved at the September Conference Call.

4. **Board Actions Register**

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

5. **Update on Reform**

5.1 The CEO and DoPP gave Members an update on the current situation on Reform. In particular, advising it was anticipated that the Ministerial response to the consultation timetable would now be delayed until late autumn or early in the new year. This was due to the Minister resigning last week. It is also possible the parliamentary timetable may now slip as a result, although the bill remains a commitment within the 'programme for government' for this parliamentary year.

5.2 Members had a free and frank discussion and following which, it was agreed that SMT would continue to update Board as matters progress. The Chair reminded Board that careful consideration would be required on future budget and strategic planning to ensure the SLCC is ready to cope with any future changes with this Reform Bill.

6. **Key Issues**

6.1 The CEO spoke to the paper presented and agreed all items would be taken as read, with additional updates provided on specific matters. It was also noted a number of items would be discussed during the Board Development Session.

6.2 **Board Member Appointments** – The CEO advised the SGvt Public Appointments Team have confirmed the appointments of the two new Members, one Legal and one Lay. The CEO confirmed their biographies would be shared with Board for information.

6.3 Members noted the current situation regarding the recruitment of a Chair. The Chair and CEO are in discussions with SGvt about this and will update Board further in November and December.

6.4 **Joint work with LSS on Interim Improvements to the Complaints System** – The DoPP advised this project may now be likely to be cancelled as the statutory instruments required may be overtaken by the main Reform Bill. Members were keen to ensure that our project points are taken forward in the Bill. The CEO noted that the learning from the project would be valuable whether it proceeded or not. The DoPP advised a formal statement is still awaited from SGvt.

6.5 **ABS** – The CEO advised Members this licencing scheme will not be launched this year, and whilst we do not have a firm date from the LSS for implementation, reassured Members the SLCC would be ready when required to deliver our responsibilities.

6.6 **Communication and Stakeholder Engagement** – The DoPP advised we have now published a revised and updated version of our statutory S40 guidance on first tier complaint handling.

6.7 **Oversight** – The DoPP advised they continue to meet quarterly with both Faculty and LSS to discuss issues raised within our handling work. The DoPP confirmed the FoA have now began to publish their tribunal decisions on their website. Members requested the DoPP continue to monitor our statutory guidance on this area.

6.8 **Cyber** – The DoBP shared information provided at recent Cyber Summit Conference. Following discussion it was agreed the DoBP would clarify our insurance on this matter.

6.9 **Digital and AI** – The DoPP advised we have now been able to become involved in sharing knowledge and join ad hoc trainings with other public bodies, and also drawing on SGvt resources, which has been helpful.

6.10 **S17 Work Update** – The CEO provided Members with an update on the S17 CoS Appeal Decision. This relates to a 3rd party complaint, and in particular, the Legal Professional Privilege (LPP) of correspondence within a client file. Members noted the judgement has been circulated to Members. Members noted this confirms the court's view that the SLCC does not have powers to review material cover by LPP in 3rd party cases. The judgement does not comment on all issues raised by counsel in court. Legal advice is now being

sought as we need to ensure that our processes are in line with the judgement and that we consider the impacts this will have on our system and processes. The CEO confirmed that meanwhile our correspondence to all firms is being revised.

- 6.11 Members had a free and frank discussion on the implications of firms citing LPP on all correspondence within their client files, which will impact on our ability to make decisions based on the evidence provided by parties.
- 6.12 Members also discussed the cost implications and lack of understanding within the profession as to what LPP is.
- 6.13 The CEO and DoR advised that the specific case discussed in court had still not resolved. We asked the firm for information we needed apart from any information covered by LPP. The firm have responded saying everything is covered by LPP. This case is about undue delay and Paterson and Ritchie note the dates and timings of meetings (and presumably other communications) are not likely to be covered by LPP. This means that we have to go back to court for another hearing, later next month, to test the court's view on whether the whole file is LPP or not. SMT would update Board on the outcome of this hearing.
- 6.14 Members acknowledged that SMT would work on a case-by-case basis and would continue to update Board on this matter.

11.45am Secretariat left the meeting

- 6.15 **Property Project** – the CEO provided members with an update around a potential office move in 2023. Members asked about the decision to remain in Edinburgh and the cost of a central Edinburgh location. The CEO outlined other locations had been looked at, however office space was larger than we required and there were other associated costs for moving out of Edinburgh, including relocation subsidies for Edinburgh based staff – currently at least 78% of our staff team. The current preference was to focus on reducing size to reduce cost but continue to meet our strategic aims around a high-quality workplace aiding us to attract and retain staff.
- 6.16 The CEO further commented that the cost of a central Edinburgh office space depends on the address of the building. Property is being investigated that do not have the premium address and costs associated with it. We also have some flexibility around layout and other aspects (for example, we have looked at properties where some of the meeting space is shared).
- 6.17 Members asked if other options, for example sub-letting an office space with others had been considered. The CEO stated this had been looked at, with other organisations looking at moving in with us or for us to move in with others. The challenge remained that organisations were often working on different timelines, with different sponsor teams, varying needs, and has to make a decision that stands up well for them alone.
- 6.18 Members asked about the cost of staying at the Stamp Office and the DoBP informed them that the rental for the Stamp Office was due to rise around £60,000. We have also benefitted from a reduced rent since we moved in, and this is due to end. Following discussion, it was agreed SMT could continue with investigating potential properties for a move in 2023, with a comparative cost analysis to be put before the Board.

Action	Owner	Due Date
A comparative cost analysis to be conducted for the property project.	CEO	

- 6.19 **Recordings as Evidence** – An overview was provided to the Board by one of the members around a DC where recordings had been provided as evidence. This is the first time that this has happened and resulted in each member of the DC listening to several hours of recordings. Members felt that there could be a better way to handle recordings in future. After discussion, it was agreed the Legal Chairs would meet and agree a method for handling recordings in the future.

Action	Owner	Due Date
Legal Chairs to meet to agree a method of handling recordings from parties.	Legal Chairs & DoR	

6.20 The Chair thanked SMT for their updates to the paper presented.

7. Complaint Levy

7.1 The CEO spoke to the paper presented, the members had a free and frank discussion around the paper and agreed with the SMT approach and to keep the levy under review. It was agreed the levy would remain at £5000 and an 'aide memoir' produced to support DC decisions.

Action	Owner	Due Date
A Complaint Levy aide memoir to be produced.	DoR	

8. Q1 2021/22 Long Term Trends and Management Information to end September 2022

8.1 The DoR spoke to the paper presented. Members were comfortable with the current waiting times, with numbers at investigation going down and more resource being introduced to eligibility. The board stated that if more resource is required, especially around the reform review, then to bring it to their attention.

9. Op Plan Update for Q1

9.1 The DoPP spoke to the paper presented and the Board did not have any questions.

10. Q4 2021/22 Appeals Update

10.1 The DoR spoke to the paper presented. Members asked about the status of, and terminology to be used, for those in state hospitals. A further discussion took place for SMT to ensure there are no further procedures that need to be considered for these types of cases.

Action	Owner	Due Date
Procedures around complainers who are in state hospitals to be checked and updated as required.	DoR	

11. Strategic Risk Register

11.1 The DoBP and CEO spoke to the paper presented. Members were content with the information provided and the paper was noted as read.

12. Finance Report Q1 to end September 2022

12.1 The DoBP spoke to the papers presented and reported on the FMR, forecast and request by AC for additional spend. FMR has two new codes which are, legal costs recovered and Section 17 costs.

12.2 The DoBP made the members aware of three areas where there is additional spend these being staffing costs, electricity costs and legal costs. The additional expenditure is still within the budgeted deficit. The DoBP informed members that our auditors have reported that although the deficit is still over three months of running costs, they would not recommend authorising more expenditure from our reserves.

12.3 The AC has asked for additional expenditure to contract our IA, Azets to conduct a Corporate Performance Management Audit. Members agreed to this additional expenditure.

12.4 Members noted the other figures presented by the DoBP.

13. Q1 Customer Feedback Report

13.1 The DoBP spoke to the paper presented and highlighted the high-level of satisfaction from both consumers and practitioners. Additionally, the number of SDC's are lower this year compared to last year. Members asked if case numbers were requested to allow follow-up of free text comments. The DoBP agreed that this was asked for, however it is not a mandatory field and information is often not provided by parties.

14. Chairs Report

14.1 The Chair had no other business to report.

15. Note from the Audit Committee

15.1 Paper was noted as read.

16. Update from the Remuneration Committee

16.1 Paper was noted as read.

17. Minute from Consumer Panel of 4 July 2022

17.1 Members noted the paper presented.

18. Chief Executive's Report

18.1 Members noted the paper presented.

19. Date of Next Meetings

19.1 Members noted the dates of the next meetings as:

- **Board Workshop will take place at 10am on Monday 14 November 2022**
- **Board Development Session will take place at 2pm on Monday 12 December 2022.**
- **Board Meeting will commence at 10am on Tuesday 13 December 2022.**

20. AOB

20.1 The Chair informed members that Member, Niki Maclean has been appointed as Vice Chair of the Board, as per the standing orders. This is to ensure there is no vacuum happens when they demit from the Commission at the end of 2022.

21. Review of the Meeting

21.1 With no other business the meeting concluded.

12.32pm Board Meeting ends