

**MINUTE OF A MEETING OF THE MEMBERS OF THE SCOTTISH LEGAL COMPLAINTS  
COMMISSION: 10.00AM TUESDAY 30<sup>th</sup> JULY 2019**

**Venue: The Stamp Office, 10 – 14 Waterloo Place, Edinburgh, EH1 3EG**

**PRESENT:**

**LAY:**

Jim Martin (Chair)  
Sara Hesp  
Emma Hutton  
Michelle Hynd  
Morag Sheppard

**LAWYER:**

Amanda Pringle  
Kay Springham

**Apologies:**

Denise Loney and Sarah McLuckie

**In attendance:**

Neil Stevenson (CEO) (Items 5-22)

Caroline Robertson (DoR) (items 6-22)



(Secretariat – minutes) (Items 1-22)

Louise Burnett (DoBP) (Items 9-22)

**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

RC – Remuneration Committee

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 Secretariat joining the meeting at 10.05am and as the CEO was in the staff Team Meeting the Chair advised that the Board would consider Agenda items 18 and 19, Previous Minutes and Chair's Report. Members also ratified the CEO's Annual Performance Review.*

**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 reported during the private session Members discussed the CEO Performance Review, which was approved subject to two additional small amendments being made to the objectives for the coming year. It was agreed the Chair would discuss this with the CEO after the Board Meeting.
- 1.3 Members also discussed the option of an additional Board Conference Call on Monday 9 September, time to be advised, as there was a DC starting at 10am.

**2. Apologies**

- 2.1 Noted from Members D Loney and S McLuckie.

### 3. Minutes of Previous Meeting from 14 May 2019

- 3.1 The Minute of the Board Meeting from 14 May 2019 was approved as read, subject to a minor typographical change being made.

### 4. Chair's Report

- 4.1 The Chair reported that there had been two external meetings with both, Neil Rennick, Director of Justice and Ash Denham, Minister of Justice. Members noted the verbal update from the Chair, who advised they were both very productive meetings.
- 4.2 The Chair also appraised the Board on a confidential HR matter.

*The CEO joined the meeting at 10.15am, the Chair advised the CEO of matters discussed above in his absence: approval of CEO Performance Review; Members request for an additional Conference Call between Board Meetings; and Chair's Report. It was noted SMT would join the Board as necessary during the meeting.*

### 5. Declaration of Interests

- 5.1 Member Emma Hutton declared an interest, as she is a member of the Public and Commercial Services (PCS) Union; this is in relation to the PCS Update in the HR paper. No other declarations of interest were made, other than the standard declarations of interest declared by Amanda Pringle and Kay Springham in relation to any pecuniary interest with regards to budgetary discussions.

### 6. Key Issues

- 6.1 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.
- 6.2 Joint work with LSS and FoA on interim improvements to the complaints system – the CEO advised that there had been a recent meeting with FoA senior staff and a meeting has still to be arranged with FoA Office Bearers. It was noted the current Dean and Vice Dean were Gordon Jackson and Angela Graham, respectively.
- 6.3 LSS Whistleblowing scheme – the CEO advised that OPBAS have now intervened and have suggested the LSS scheme is too wide. LSS have agreed and are redrafting the scheme, which has still to be finalised and shared with the SLCC. The Board requested an update at their next meeting.
- 6.4 Records Management – Members sought clarification on destruction dates. The CEO advised that case records are destroyed after 10 years and corporate files are held for perpetuity.
- 6.5 Newpro Upgrade – Members noted the current position and the CEO advised the next upgrade would take place on Saturday 17 August. Members raised concern that a DC would be taking place on Monday 19 August and this would restrict their remote access. The CEO reported that contingency plans would be put in place to aid Members access over this weekend.
- 6.6 Consumer Panel – Members approved the new Consumer Panel Members, Jane Williams from Queen Margaret University and Gillian Fyfe from Citizens Advice Scotland. The CEO reported that during the February meeting of the Consumer Panel it had been suggested a representative from YoungScot be sought to join the group. YoungScot agreed and would be represented by their CEO, Louise Macdonald. Members sought clarification on the Consumer Panel selection process for membership; the CEO explained this, noting the requirements of the 2007 Act and the Terms of Reference. The Chair formally recorded the Board's thanks to the outgoing Consumer Panel Chair, Carol Brennan and Susan McPhee for their valued contribution, to both the work of the Consumer Panel and how this reported into the organisation. Members noted and ratified the new Consumer Panel Members for approval.
- 6.7 Members also sought an update on 1<sup>st</sup> tier complaints, and the CEO advised that there still no further update to the consultation. It was noted that this was now with the Lord President's Office and the CEO will update Members when a response is received.

The DoR joined the meeting 10.25am

6.8 Scottish Solicitors Discipline Tribunal consultation (SSDT) - the CEO advised that SLCC submitted a response supporting the civil standard of proof. LSS have submitted two responses, one of behalf of their Members and the second on behalf of their Regulatory Committee. The former argues against the move to the civil standard, the latter argues for it.

6.9 Members noted that anonymised SLCC decisions were now being published on the website. It was agreed the CEO would circulate a link to Members.

Action	Owner	Due Date
CEO to circulate a link to Members to access anonymised case decisions on the website.	CEO	ASAP

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

## 7. Q4 2018/19 Long Term Trends and Management Information to 30 June 2019

7.1 The CEO spoke to the paper presented and advised that the yearend finished positively, new targets for staff have been set for the coming year. Members noted the new DC sprint and how this could impact on Clerking and Investigation CI targets. The DoR acknowledged that this new process will impact on current Clerking and Investigation CI targets which will require monitoring. Members were surprised that the targets had not already been reviewed in line with the current process change, as they were concerned about the impact this will have on staff. The DoR confirmed that we don't change formal targets until we have a sufficient data set to base them on, this is important in both justifying the targets to staff, and ensure that they are enforceable. A target based on poor data, which proves impossible to meet, undermines all performance management. Members also noted that further departing/absent staff had not been back-filled. The DoR advised that the DoBP, along with SMT, were reviewing the current Administrative situation and in the short-term, temporary staff were in place. It has also just been agreed that they will commence recruitment for a Grade 4 Complaints Team Members, giving more flexibility within the CI/Clerking roles. The DoR advised that within the new management structure the CM was included in the weekly IMT meetings. It was noted that IMT have areas of responsibility, but also back-cover for each area of responsibility, which aids flexibility for holiday cover etc.

7.2 The Chair sought an update on the '10' oldest cases. The DoR reported that one of the oldest cases still with the LSS is having additional issues added by the complainer, as they have come to light during various court actions. Members were surprised additional issues were being added after 7years. The CEO reported these additional issues were just uncovered during recent investigations by the complainer who had been supplied new files relating to the case. Members shared their concerns about additional issues being added and the CEO explained the reasons for this. The DoR gave an update on the other remaining older cases. Following a free and frank discussion, it was agreed the CEO would continue to include a report on unallocated/backlog, along with turnaround time, in the management information reporting. Members noted the positive movement in the statistics for this year and were delighted that SMT were keen to push these figures further but not at the sacrifice on quality. The CEO thanked Members for this. Members asked that SMT feedback their thanks to staff.

Action	Owner	Due Date
CEO to include unallocated case, raw data to link to production capacity for next presentation of management information stats.	CEO	22 October 2019
CEO to draft and circulate to the Board for info.	CEO	ASAP

7.3 The Chair thanked the CEO and DoR for their explanation to the papers presented.

## 8. Q4 2018/19 Customer Feedback

- 8.1 The CEO spoke to the paper presented. Members noted that a number of comments state the SLCC are 'funded' by the profession and are concerned about this statement and perception. Members considered if there was any insight to compare with other bodies and how to benchmark against similar organisations. As the CEO was not aware of this information, it was agreed this would be clarified with other Ombudsman organisations. The Chair thought this work may have previously been carried out in 2013. The CEO acknowledged this and agreed that further work on reviewing standard documents and reports would include plain English. The Chair advised that the Ombudsman Association have a Communication Group which organisations can utilise for ideas and materials.
- 8.2 Members enquired if the response rates of other organisation also showed a split between complainers and practitioners in terms of response rate and satisfaction. As this was not available, the CEO agreed to share this with Members after the meeting.

Action	Owner	Due Date
CEO to identify and share comparative data from other complaints bodies, including if possible any differentiation between complainer and practitioner feedback.	CEO	ASAP

- 8.3 It was agreed that satisfaction rates would also be shared with the Consumer Panel.

## 9. Q4 2018/19 Operating Plan Update

- 9.1 The CEO spoke to the paper presented and following a free and frank discussion it was agreed that the CEO would clarify points raised by Members and feedback by email.

Action	Owner	Due Date
CEO to clarify points raised with Interim DoPP and feedback to Members.	CEO	ASAP

- 9.2 Members also discussed the feasibility of utilising other training avenues for learning tools. For example, using small bite size videos on the website to help explain various stages of the process, similar to the ones used by the BBC etc. It was agreed this would be explored further with the DoPP.

Action	Owner	Due Date
CEO to review other training avenues for learning tools on the website with the Oversight team.	CEO/DoPP	XX

11.20am comfort break

11.25am meeting resumed with DoBP joined the meeting

- 9.3 Members sought an update on the 42 linked cases. The DoR advised that they have all moved from Eligibility to Investigation stage, and that ultimately all issues raised had been deemed 'service'.

## 10. Financial Management Report

- 10.1 The DoBP spoke to the papers presented.
- 10.2 FMR – 12 months to 30 June 2019 – Members noted Income from recoverable complaint levies of £3.5k during June, showing a revised year-end position of £84k. Bank interest was £37k. Expenditure of direct staff costs have continued to be over budget, showing continued overspend cumulative £79k to date. The DoBP advised that the budget out-turn for 2018/19 indicates an excess expenditure of £114k, with a budgeted surplus of £14k. It was noted that Reserves for end June 2019 were anticipated to be in the region of £471k.
- 10.3 Balance Sheet – Members noted the balance sheet presented.
- 10.4 The DoBP reported that the final accounts still to include a final adjustment for the LRPF provision as it was due imminently from the Pension provider.

- 10.5 It was noted that fixed assets have a book value of £38k, this reflects the limited capital spend in this financial year.
- 10.6 The CEO reported that the F&CSM would be leaving at the end of September. The AC Chair asked that SMT ensured that the SLCC were not open to risk following this departure. The DoBP confirmed that plans were in place to mitigate any risks to the organisation.
- 10.7 Members formally recorded their thanks and appreciation for the F&CSM's contribution, acknowledging the high standard and quality of the work provided to the Board over previous years.
- 10.8 The Chair thanked the CEO and DoBP for their update and explanation to the figures presented.

## **11. Q4 2018/19 HR Update**

- 11.1 The DoBP spoke to the paper presented. Members noted the current recruitment status in particular: the internal movement between grades; and that the DoPP recruitment had concluded, with the new staff member starting on 2 September. The DoBP reported the variance in FTE headcount figures were due to long-term absences.
- 11.2 Members noted the update from the DoBP on the current situation with the HR Manager and it was noted this would conclude with an amicable solution to both parties. Other long-term absences were being managed appropriately. It was noted that the DoBP is undertaking a CPD HR course for personal development, and that SMT are reviewing the departed roles within Corporate Services. The Chair requested that SMT ensured Board were provided with ongoing HR advice.
- 11.3 The DoBP reported that the initial PCS pay claim had now been received and SMT will prepare a briefing report for the next Remuneration Committee to consider. It was noted by Members that as this years' budget had been set, considerations will need to be taken into account for forthcoming pay negotiations when setting next year's budget.
- 11.4 Members also noted the other key HR activities in Qtr4 and thanked the DoBP for input to the paper presented.

## **12. Appeals Update**

- 12.1 Members noted the paper presented.
- 12.2 Members also noted the YoY analysis of Appeals. Consideration was given as to whether there were particular reasons for the rise between 2017-18 and 2018-19. The CEO and DoR advised that whilst there was no specific trend identified, there had been an increase in the number of party litigants who applied for Leave to Appeal. There was also an increase in the underlying case load. This means appeals were up in absolute terms, but stable in percentage terms relative to the number of incoming complaints we were receiving.
- 12.3 The CEO updated the Board on the Judicial Review. Following a free and frank discussion it was agreed that the CEO would update the Board once the case had progressed.
- 12.4 Members sought clarification on whether there was any correlation between the two different stages of the process and the number of Appeals received. However, the DoR reiterated, that this was merely down to the type of case which was appealed by party litigants. Members noted that the numbers were within the margin of error of risks applied.
- 12.5 Members thanked the CEO and DoR for their update on current Appeals.

## **13. Strategy Development Timetable**

- 13.1 The CEO spoke to the paper presented and sought Member's views on the proposed timetable. Following discussion it was agreed that SMT would consider the long term financial plan of the organisation, as well as, considering whether a 3-year or 4-year plan might be more suitable, given the external constraints of: Fit for Future; possibility of an Election; the timetable of Board Member departures, and other key events such as lease renewal.



- 13.2 Members also suggested that the Consumer Panel be included in this project.
- 13.3. The CEO thanked the Chair and Board for their input and Board looked forward to the first workshop session on this.

**14. Update on Policies – Governance Arrangements**

- 14.1 The DoBP spoke to the paper presented and advised that the proposed changes to the Scheme of Delegation, was the incorporation of a new decision maker in Section 6 Complaints – 24(1) and 24(6A), no other changes had been made.
- 14.2 Members confirmed their approval of the proposed minor changes.

**15. Risk Register Summary**

- 15.1 The DoBP spoke to the paper presented and advised that Risk 2 required updating, as does Risk 12, which will now become a permanent risk, with the reference to “1<sup>st</sup> year” being removed, as GDPR is now an embedded practice.

**16. Audit Committee Update**

- 16.1 The AC Chair reported that AC had undertaken a self-assessment exercise as to the effectiveness of the AC, this was the 2<sup>nd</sup> time this had been carried out and the results showed a more positive outcome, with no major concerns being raised. They also reviewed the Assurance Map, in particular, looking at the lines of defence, which will also be considered in the Assurance Map review. Members noted the decision not to pursue full Cyber Essential Accreditation Plus was put on hold, until the new IT equipment was installed, along with the move to Office 365 has been implemented.
- 16.2 The AC Chair also reported the results on two recent Internal Audits. There was one minor issue identified in the recent Payroll Audit, which has already been actioned. As has an assurance been given, that all outstanding actions from 2014/15 and 2017/18 will be cleared as a matter of urgency by both SMT and IA.
- 16.3 With regards to the Annual Report, this was in the final stages of drafting.
- 16.4 For the year ahead, AC will be reviewing the next set of IA audit plans which will review the analysis of 5-years of data. Initial meetings are planned with IA to scope the project and develop a timetable. It was noted that this may also stimulate discussion on the Operating Plan with Members.
- 16.5 The AC Chair reiterated the External Audit draft Report will be brought to the October Board Meeting.

**17. Board Training Proposal – Governance Workshop**

- 17.1 Members noted the proposal presented by IA. Members wondered whether a half-day session would give enough time, however after discussion, it was agreed, if it draws on the relevance to Public Sector examples, then it should be. Members agreed with the draft proposal. It was agreed that the CEO would confirm the date with IA.

Action	Owner	Due Date
CEO to confirm date for Board Governance Workshop with IA.	CEO	ASAP

**18. Board Actions Register**

- 18.1 Members noted the ongoing Actions and agreed that completed actions be removed. Members sought clarification on Actions 292 and 316 and following discussion, it was agreed that these would be consolidated to one action.
- 18.2 An update was provided on Action 305, and it was agreed that as the Remuneration Committee (RC) had now held an initial meeting, updates would be provided at future Board Meetings and become a standing Board Agenda item.

Action	Owner	Due Date
Secretariat to adjust the Board Agenda.	Secretariat	Done

- 18.3 The Chair advised that both AC and RC would share responsibilities for approval of pay negotiations.

**19. Date of Next Meetings**

19.1 Members noted the dates of the next meetings as:

- Board Conference Call 9am on Monday 9 September 2019
- Board Development Session will commence at 2pm on Monday 21 October 2019
- Board Meeting will take place at 10am on Tuesday 22 October 2019

**20. AOCB**

20.1 None.

**21. Chief Executive's Report**

21.1 The Board noted the paper presented and the CEO gave a brief overview of the recent meetings. Members noted with interest, the 24hour web chat session with the Ombudsman Association. The CEO explained the process and how this worked in principle with their enquiries system.

**22. Review of the Meeting**

22.1 With no other business the meeting concluded.

*12.50pm DoR, DoBP, CEO and Secretariat left the meeting*