

**MINUTE OF A MEETING OF THE MEMBERS OF THE SCOTTISH LEGAL COMPLAINTS
COMMISSION: 10AM TUESDAY 25th JANUARY 2022
VIA: ZOOM**

PRESENT:

LAY:

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

LAWYER:

Richard McMeeken

Apologies:

None

In attendance:

Neil Stevenson (CEO)
Louise Burnett (DoBP)
Caroline Robertson (DoR)

██████████ (Secretariat – minutes)
Vicky Crichton (DoPP)

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
BCP – Business Continuity Plan

1. Welcome and Apologies

- 1.1 The Chair welcomed everyone to the Board meeting and thanked everyone for their input to yesterday's Board Development Session.
- 1.2 The Chair extended a warm welcome to new Members, Jean Grier, Richard McMeeken and John Stevenson to this their first Board Meeting.
- 1.3 The Chair noted no apologies had been received for today's meeting.
- 1.4 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. Declaration of Interests

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

3. Key Issues

- 3.1 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.
- 3.2 **Operational Update** – The CEO advised the SGvt current guidance was for staff to continue to WFH, it was acknowledged that other restrictions had changed from this week. It is understood that SGvt will consider a phased return to office working, with further guidance being provided next month. Members sought assurance that SMT

- ensured all staff on secondment were kept fully informed of all office and IT updates. The DoBP confirmed all staff are required to bring in their laptops for update regularly. The CEO advised Line Managers also have regular contact with staff on secondment ensuring they are kept up to date.
- 3.3 **Board Member Appointments** – The Chair advised, unfortunately the planning meeting with the Public Appointment Team, would now not be taking place until 9 February. This means the advertisement would not meet the original January timescale. The Chair is also concerned these delays will impact on the current Board membership and stressed his concerns will be shared with the Minister, at their meeting next week. The Chair is also going to suggest, the Sponsor Team consider starting the recruitment process for his replacement, as Chair and that of Lay Member, M Sheppard, as they both demit on 31 December 2022.
- 3.4 **Joint work with LSS on Interim Improvements to the Complaints System** – Members noted the update to date.
- 3.5 **ABS** – Members agreed this would be discussed later in the meeting.
- 3.6 **Communication and Stakeholder Engagement** – Members noted the update to date.
- 3.7 **Oversight** – The DoPP advised that to date there has still been no response from the LSS on our report on the Master Policy, which was published on 17 November 2021. The DoPP agreed to follow this up.
- 3.8 **Cyber Update** – The DoBP confirmed the server patching took place as planned and she was meeting with a Cyber Security company with regards to developing our Cyber Incident Response Plan. The DoBP also confirmed Cyber Security would be a standing item on the AC Agenda.
- 3.9 **Digital and AI** – Members sought an update on the use of an AI Intern to review the data science project. The CEO advised this was still being explored with SGvt and DataLab.
- 3.10 **S17 Work Update** – Members noted that both the DoR and CEO were attending the CoS for the contempt of court hearing. This relates to the ongoing issue with the solicitor who has failed to comply with the court order. The DoR gave an overview of the current cases being pursued under S17 with the court. The CEO explained that an Amicus Curiae has also been appointed. For the benefit of Members, the CEO explained an Amicus was not a party to the case but who assists a court by offering information, expertise, or insight that has a bearing on the issues in the case. The decision on whether to consider an amicus brief lies within the discretion of the court. Members sought clarification on the reasons for the court obtaining an Amicus. The CEO advised unfortunately they were not privy to the reasons why an Amicus was appointed. The DoR reiterated that this hearing was about how a solicitor is acting in contempt of court and not the wider issues of their noncompliance with the SLCC.
- 3.11 The DoR also advised that there was a second case against the same solicitor at a different stage in the S17 process being considered at the CoS. There was also another case, against another firm, which relates to a 3rd party solicitor files. Members were keen to ensure that all avenues were being pursued with the LSS, exploring if a solicitor who is held in contempt of court could continue to hold a practicing certificate. The DoR confirmed they have continued to raise this issue with the LSS. However, as the solicitor has already been subject to a SSDT hearing, the LSS have intimated they would wait on the outcome of the contempt of court hearing before they decide how to pursue matters. Members sought clarification on whether the CoS would provide findings/recommendations regarding the contempt of court hearing to the SLCC on how to pursue the obtaining files from this solicitor. The DoR stated it was unclear, as this was a unique case and as the SLCC were not a named party in the contempt of court hearing, they thought not. Members also sought clarification if the LSS were a named party in this case. The DoR confirmed they were not. The CEO reiterated this case was unique and it was unclear if any recommendations would be provided to the SLCC.
- 3.12 For the benefit of new Members, the CEO explained the reasons for pursuance of case files under S17 powers and why this case ended up in the CoS with the Judges' ruling of obtemper and the implications of this on the failings of the solicitor to provide the files to the SLCC, and for also failing to attend court for the other hearings.

- 3.13 Members also noted the LSS have still to advise about a communication being issued to all their members to encourage compliance in providing files to the SLCC. With several other cases of non-compliance being referred to the LSS, as well as court action being pursued under S17 powers.
- 3.14 The Chair thanked SMT for their update to the paper presented.

4. Draft Budget and Operating Plan Consultation document for 2022/23

- 4.1 The Chair advised that Members were being asked to formally approve the final draft Budget presented, along with the draft Operating Plan, which would be issued for consultation by 31 January 2022. The CEO spoke to the draft Budget and Operating Plan document and confirmed all previous suggestions had been incorporated into this final draft document. Members noted there were a number of stylistic and typographical changes required. Following discussion, Members agreed these should be forwarded directly to the DoPP for inclusion.

Action	Owner	Due Date
Members to email DoPP direct with any suggested stylistic and typographical changes.	Members/DoPP	By end of day 25 January 2021

- 4.2 Members suggested specific sections be linked to ensure clearer presentation of data. Following discussion, the CEO agreed to review the wording at paragraphs 1.13, 2.8, 4.15, 4.16, 6.10, 6.12, 6.17, along with moving the order of point 6.12 and 6.13. Members sought clarification on how paragraph 6.10 was measured. The CEO advised this related to the complexity and number of issues being raised within each complaint. Following discussion, it was also agreed the CEO would review the wording of 6.12-6.16, the non-compliance of solicitors and how much these costs to pursue these proceedings under S17.
- 4.3 The Chair requested the CEO and SMT ensure all amendments were incorporated, and the document was proofread for consistency before issuing for publication and consultation.

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 2022.	CEO/SMT	By 31 January 2022

- 4.4 Board formally approved, Section 9 of the draft Budget and Operating Plan consultation document, which states:
- | | |
|------------------------------------|---------|
| General Levy would be set at | £444 |
| Complaint Levy would be set at | £5,000 |
| Approved Regulator (AR) Fee set at | £10,000 |
| AR Complaint Levy would be set at | £8,000 |
| Licensed Provider (LP) Fee set at | £1,000 |
- 4.5 The Board approved the budget contained within Appendix 1.
- 4.6 The Board also reiterated their approval of the listed suggested discounts from the General Levy for different practitioner groups.
- 4.7 The Chair confirmed Board agreed to delegate authority to SMT to update and finalise the draft Budget and Operating Plan for it to be published by the timescales set.
- 4.8 The CEO confirmed that SMT would ensure that all timescales were met and that the documents would be circulated to all stakeholders for consultation. The CEO agreed a final copy would be sent to them by email, and that the final document would be issued for consultation by 31 January 2021, as required by the 2007 Act.
- 4.9 Members noted the consultation period concluded at 12noon on 17 March 2022, with a full update provided to the March Board Meeting. With responses received being published by end of March 2022, and the final budget must be laid before Scottish Parliament in April 2022.
- 4.10 Members thanked the CEO and SMT for their explanation to the papers presented.

5. Property Search

- 5.1 The CEO spoke to the paper presented, explaining at this point, SMT were seeking Board approval to contract for professional advice from a Chartered Surveyor to start the property search project. The CEO confirmed that SMT have met with SGvt officials to ensure this meets with SGvt protocols. SGvt have confirmed SMT are able to seek professional advice and SGvt will keep SMT informed of any public sector estate that might become available.
- 5.2 Members sought clarification on the two different timelines mentioned in the Annexe documents. CEO confirmed it was 6month notice required and agreed this would be amended.

Action	Owner	Due Date
CEO/SMT to review the draft Advice Specification document, taking into consideration today's discussions, prior to issuing and obtaining the services of an independent Chartered Surveyor.	CEO/SMT	By 31 Jan 2022

- 5.3 Members suggested that for staff to work collaboratively, specifically looking at the geographic area of locating an office centrally and the WP suggested that SMT give consideration to the use of 'remote hubs'.
- 5.4 For the benefit of new Members, the CEO explained as this project was below the threshold for the tender process this was why it was not being carried out this way. The tendering process for SGvt Property Framework costs are too great for the SLCC and this project will below the threshold required by SGvt. Following discussion, regarding the timetable, it was agreed SMT should consider moving the timetable forward. It was acknowledged, that if the process commences too early, then property managers might not commit to keeping a property available for entry in September 2023, which is when we would be ready to move.
- 5.5 The Chair reiterated, his demitting from office on 31st December 2022 should not preclude the Board from setting an appropriate timetable for this project.
- 5.6 The CEO confirmed that if we were unable to serve notice to move, we would remain in these premises for another 5years.
- 5.7 Board approved the advice specification and for SMT to move this project forward.

6. Legal Services (Scotland) Act 2010 – ABS

- 6.1 The CEO spoke to the paper presented and gave an overview of the preparations for our functions under this Act.
- 6.2 Members sought clarification on whether it would be possible to track the costs associated with this separately. The CEO advised that whilst it was not laid down in statute to split/track these costs separately, this could be done.
- 6.3 Members also sought assurance SMT would update Board on any ABS cases when received. The CEO confirmed a briefing would be included in the Key Issues paper and updated in the Operating Plan. Members discussed the feasibility of reporting these figures separately in the Annual Report and agreed that SMT should consider separate KPI reporting to Board when cases were received.
- 6.4 Members noted SMT wrote to the to the LSS on 22 December 2021 requesting advance notice of any new licence providers, no response has been received to date.

7. Update on progress with Working Party outcomes

- 7.1 The CEO spoke to the paper presented and for the benefit of new Members gave a brief update on work to date. The Chair advised that Member, M Sheppard was the board lead on this project with SMT.
- 7.2 Member M Sheppard stressed that whilst the WP have been focussing on changes, they have been formally assessing the shift in digitalisation to ensure that we are not causing digital exclusion to any of our service users. The DoPP reiterated a checklist had been developed following various discussions to ensure digital interface, and it was important this was kept to the forefront of decision making.

- 7.3 Members were pleased to read this plan on digital flexibility and sought assurance that any new staff appointed would be working in this way. The CEO confirmed they would, there would be a focus on digital skills.
- 7.4 Board agreed with the proposed paper presented.

11.23am comfort break, meeting resumed at 11.33am

8. Q2 Long Term Trends 2021/22 and Management Information to 31 December 2021

- 8.1 The DoR spoke to the paper presented, and advised incoming cases for end December was 86, with WIP being 334 to date. This was down on November reporting.
- 8.2 The DoR advised they had just commenced a QA refresh, by conducting a review of the QA checklists and processes. Reasons for this review is now due to having well established CI team, it will also incorporate the use of Plain English and clearer layouts etc. of letters and reports, in this new Sprint project.
- 8.3 Following discussion, the DoR agreed to meet with new Member, J Stevenson to explain the data presented, along with the QA process.

Action	Owner	Due Date
DoR and Member, J Stevenson to meet for an overview of the LTT, Management Information data and the QA process.	DoR & Member, J Stevenson	By 18 March 2022

- 8.4 Members sought clarification on the Eligibility KPI target. The DoR apologised for the typographical error and advised these figures should be transposed.
- 8.5 Members speculated if there was any additional support that Board could offer to aid the SMT and staff at this present time. The DoR explained due to having only one Legal Member, they would be heavily reliant on Member, R McMeeken's availability to ensure cases are considered at the Eligibility and Determination stages of the process.
- 8.6 Members discussed the target setting at Determination stage and whether this would be an achievable KPI. Following discussion, it was agreed that SMT would monitor and adjust, if necessary, this KPI target, along with WIP.
- 8.7 The Chair sought an update on the ten 'oldest' cases in the system. The DoR confirmed, of the ten cases, two were now back in our system and the other eight still with the LSS. The DoR advised oldest case in this category dates from 2012 and is one which is at the LSS. Following discussion, it was agreed the DoR would clarify how long the eight 'oldest' cases had been with the LSS and provide an update to Board on all ten.

Action	Owner	Due Date
DoR to clarify how long the ten 'oldest' cases had been waiting, and how long the eight cases with the LSS had taken, and provide an update to Board.	DoR	By 4 February 2022

- 8.8 The CEO suggested Board might wish to think about what data and indicators they would like SMT to report on.
- 8.9 The Chair thanked the DoR and CEO for the explanation to the paper presented.

9. Q2 Appeals Update 2021/22

- 9.1 The DoR spoke to the paper presented and gave a brief update on the current ongoing appeals, along with prospects.
- 9.2 Members sought assurance that they would be informed if a case which they had determined had been subject to an appeal they would be notified of this. The DoR confirmed they would, as this was part of the Appeal process checklist.
- 9.3 Members discussed whether the IMT Lead was able to differentiate on the cases appealed at Determination stage. The DoR advised they did not.

10. Q2 Finance Report to 31 December 2021

- 10.1 The DoBP spoke to the papers presented and reported Income was £73,245 ahead of Budget, with Expenditure showing a saving of £206,887.

- 10.2 The DoBP reported that of the Complaint Levy income is currently £52,000 ahead of the phased budget, this is in line with the forecasted increase to this income line. It was noted of the Complaint Levy invoices raised to end of December, it was estimated that £20,000 might be moved to Bad Debt at the yearend as they have been charged to a company in Administration. The DoBP advised there will be further Complaint Levies transferred to Bad Debt as complaints against this firm move through the system.
- 10.3 The DoBP reported staff salary costs were £73,664 under budget for the month, with secondment income being £27,173 ahead of budget. Staff savings were a result of vacancies within the staff establishment, as there were no plans to recruit on current staff vacancies. Further savings of £5,000 have been made by not utilising reporters. The DoBP also advised this also takes account of the NI increase that will be payable from April 2022.
- 10.4 Members noted their costs were currently £26,661 under budget. The DoBP advised they were forecasting a £40,000 saving within this area at year-end.
- 10.5 The DoBP report that IT costs were £5,951 under budget but this was due to timing of works, with SMT receiving a quote for the VPN project work. The Chair sought assurance that the IT project timescales were still as planned. The DoBP confirmed they were.
- 10.6 Members noted the other figures presented by the DoBP.

11. Risk Register Summary

- 11.1 The DoBP spoke to the paper presented and gave an update on current Risks. In particular, advised Risk 12 – Transition to new Board composition and chair was now the highest risk. With Risks 2 and 9 remaining high as they were linked to Risk 12 and new Board Member recruitment.
- 11.2 The Chair sought assurance from the AC Chair that AC agreed with the current risk scores. The AC Chair confirmed the AC agreed and that the Risk Register had been discussed in detail last week. The AC Chair also reported, AC discussed the remote working infrastructure following the output of the FarrPoint review and AC agreed the DoBP would develop a GAP analysis to be considered by AC at their next meeting.
- 11.3 Members noted the paper presented.

12. Q2 HR Update 2021/22

- 12.1 The DoBP spoke to the paper presented and gave an overview of the current FTE variance of 6.71, which was a result of 5.51 FT vacancies within the CI role at Grade C, plus one FTE vacant Clerk post at Grade C, and the remaining 0.2 FTE at Grade E is due to a flexible working request within the Case Investigation Management role.
- 12.2 The DoBP confirmed this paper would be discussed at next week's RC.

13. Update from the Audit Committee

- 13.1 The DoBP gave an overview of the AC Meeting last week, advising they discussed in detail cyber security, which was linked to the IT project. The AC Chair confirmed cyber security was discussed in detail at AC, as they were keen to find out how quickly an intrusion would be detected and then responded to. The AC Chair suggested a matrix be drafted covering intrusion detection points, and it was agreed the DoBP would develop a metrics for intrusion detection and response.
- 13.2 The AC Chair advised; AC also discussed the possibility of conducting another De Novo review of the Risk Register. AC agreed the CEO would lead this project and contact Board directly to seek their 'top ten risks.' This will be discussed at the April AC and Board Meetings.

14. Q2 2021/22 Operational Plan Updates

- 14.1 The DoPP spoke to the paper presented and gave an update on projects to date.
- 14.2 The Chair sought assurance that all the 34 projects underway and reported as 'green' would still be on track for yearend. The DoPP confirmed they were. The CEO reiterated they were all still on track for yearend.

15. Solicitor Survey and Customer Service

- 15.1 The DoPP spoke to the paper presented and for the benefit of the new Members gave an overview of the reasons for the survey being conducted. The DoPP also gave an overview of the in-house work being carried out by SET (Service Experience Team).
- 15.2 Members discussed in detail the output from this survey and noted their surprise that the oversight team had to use publicly available data to issue this survey to the profession as the information was not made available by the LSS. The CEO advised that whilst we now have an agreed information sharing protocol in place with the LSS on individual solicitor detail relevant to cases it had taken almost two years to agree. LSS still resisted providing any further data to allow the SLCC to carry out its regulatory functions.
- 15.3 Members noted that of the 1,736 surveys issued there was only a 19% response rate which was disappointingly low.
- 15.4 Members requested the results be presented 'by outcome category.' The DoPP agreed this could be presented this way.

Action	Owner	Due Date
DoPP to review the presentation of data to include 'by outcome category',	DoPP	By 1 March 2022

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 The DoPP also advised the Vice Chair of the Consumer Panel was acting as Chair and the membership of the group would be reviewed at their March Meeting. Members agreed the new Consumer Panel Chair would be invited to the March Board Meeting. The DoPP to arrange this.
- 16.3 Member, J Andrews also intimated she would like to attend a future Consumer Panel Meeting. The DoPP would liaise with Member, J Andrews on dates once the new Consumer Panel Chair had been appointed.

Action	Owner	Due Date
DoPP to invite the Consumer Panel Chair to the March Board Meeting.	DoPP	By 11 March 2022
DoPP to arrange for Member, J Andrews to attend a future Consumer Panel meeting once the new Consumer Panel Chair has been appointed.	DoPP	TBA

17. New Code of Conduct for Board Members

- 17.1 The Chair noted the new Code of Conduct for Board Members was discussed at yesterday's Board Development Session, following the presentation on this topic by the Acting Ethical Standards Commissioner, Ian Bruce.
- 17.2 The Chair advised Members were being asked to adopt the new Code as presented, or if they would like amendments, then changes must be submitted to the SGvt Sponsor Team for approval and inclusion. The CEO noted SMT would suggest Board adopt the model code in full and were seeking Board's approval of the document.
- 17.3 Member, M Sheppard was part of a working party who provided input, along with the DoPP, last year and was disappointed that their suggested changes were not taken on board or incorporated into the new document. In particular, relating to points 3.2 and 3.3 in the new Code. Following a free and frank discussion on these points, it was agreed the CEO would clarify these points with the Acting Ethical Standards Commissioner. Members will discuss this again at the March Board Meeting.

Action	Owner	Due Date
CEO to seek clarification on points 3.2 and 3.3 in the new Code of Conduct for Board Members document with the Acting Ethical Standards Commissioner and update Board at the March Meeting.	CEO	By 22 March 2022

18. Board Actions Register

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

19. Minutes of Previous Meeting from 14 December 2021

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

20. Chair's Report

20.1 The Chair advised whilst there had been no meetings to report on, both he and the CEO would be meeting with the Minister, Ms A Regan next week. They will be discussing the SLCC's performance to date, Board recruitment would also be on the agenda.

21. Date of Next Meetings

21.1 Members noted the dates of the next meetings as:

- Board Development Session will take place at 2pm on Monday 21 March 2022.
- Board Meeting commence at 10am on Tuesday 22 March 2022.

21.2 The DoBP advised topics for the BDS would be on H&S and DSE.

21.3 Chair advised these meetings will continue to take place remotely due to ongoing SGvt guidelines. However, should the guidance change Members will be advised accordingly.

22. AOCB

22.1 The Chair advised that they would be seeking new members to join the H&S Committee which meets quarterly. These usually take place around Board Meeting dates. The Chair requested anyone interested to send an email.

23. Chief Executive's Report

23.1 The Board noted the paper presented and gave a brief update for the benefit of new Members about the recent roundtable event being hosted by the SLCC. This was linked to the output of the survey and being attended by 10-12 partners from large corporate firms. A second event will also be hosted for smaller firms.

24. Dates for 2023-24 Meeting Cycle

24.1 Members noted two options were proposed by SMT for future meeting cycles. The Chair sought SMTs preference from the two options. Following discussion it was agreed they would trial Option 2, with dates being developed by SMT and shared with Board.

24.2 The Chair thanked Members and SMT for their input into both the Development Session yesterday and the Board Meeting today, and thanks were extended the three new Members.

12.45pm 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 Six-Month Performance Review

25.1 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.

26. Review of the Meeting

26.1 With no other business the meeting concluded.

12.55pm Board Meeting ends