

**NOTE OF BOARD CONFERENCE CALL ON MONDAY 13TH SEPTEMBER 2021 AT 9.00AM
VIA: ZOOM due to current lockdown restrictions**

PRESENT:

LAY:

Jim Martin (Chair)
June Andrews
Sara Hesp
Niki Maclean
Sarah McLuckie
Morag Sheppard

LAWYER:

none present

Apologies:

Denise Loney
Kay Springham

In attendance:

Neil Stevenson (CEO)
Vicky Crichton (DoPP)
[REDACTED] (Secretariat – notes)

Louise Burnett (DoBP)
Caroline Robertson (DoR)

Abbreviations used:

LSS – Law Society of Scotland
SGvt – Scottish Government
DoBP – Director of Business Performance
DoR – Director of Resolution

AC – Audit Committee
RC – Remuneration Committee
DoPP – Director of Public Policy

Apologies have been noted from all Legal Members, as detailed above. The Chair confirmed that the Governance arrangements policy for quorum and decision making during this meeting had been consulted due to no Legal Members being present at this meeting. It was confirmed that the meeting could proceed with current membership present.

The Chair welcomed everyone to the Conference Call.

Papers for the meeting

The Chair confirmed that the papers for the meeting had all been noted by Members and SMT would provide updates on: 1) Key Issues; 2) Reform and Change: ABS, Medium Term and Long Term; 3) Board Actions Register and 4) Minutes of Board Meeting from 26 July 2021 were presented for approval.

Key Issues

The CEO spoke to the paper presented and gave an update on the current operational update during the continued lockdown, along with Working Party progress to date. Members sought clarification on whether the staff S&A was due to Covid-19 symptoms or vaccine related. The DoBP advised there had been minimal S&A due to Covid-19 symptoms, and absence was mainly due to the aftereffects of the vaccine.

The CEO also advised the output from the IT consultancy project from Farrpoint would be presented to the October Board Development Session. It was noted that these were classified and presented as Bronze, Silver and Gold options. The DoBP acknowledged that cyber security was a priority for Board. This, along with the costs, would be taken into consideration, when SMT decide on the final option which would be most suitable for the organisation's needs. The Chair enquired if there would be any net impact on IT costs and whilst the DoBP confirmed there would be, this would be included in the update paper for the October Board Meeting.

Members noted the update provided by the CEO and Chair in relation to the Board Member Appointments, in particular, the assistance given by the SGvt Sponsor Team, Denise Swanson in assisting with this process. It was agreed that the CEO and Chair would update Members on any progress when available.

Action: CEO and Chair to update Members on Board Member Appointments as soon as information is available from SGvt.

Congratulations were extended to Member, Frank Gill on his recent appointment as Summary Sherriff, with the Chair and Members wishing him well. It was noted this appointment commences 1 October 2021, with his subsequent resignation being effective from the SLCC on 30 September 2021.

Members noted that Lockton had been reappointed as Master Policy brokers for the next five years and sought clarification on whether there would be any future surplus from this fund to ensure recourse for parties. The DoPP was unsure this would be the case but would update Members if this changed.

Members also noted that the DoPP had met with the Labour Shadow Justice Team to discuss their priorities, the work of the SLCC and proposals for reform. The DoPP advised this was a helpful meeting from both sides. The Chair enquired if similar meetings had taken place with other parties. The DoPP advised they had not to date, though offers have been made.

The CEO advised that the IT Consultancy Report from Farrpoint had been received in draft, and as previously advised, a full update and presentation would be given at the October Board Meeting. The DoBP would review the costings for this meeting. The Chair enquired if Board would be required to make a holistic decision following the presentation at the October Board Meeting. The CEO confirmed they would.

Members noted the QA Feedback and sought clarification on what happens to questions that are raised which relate to Policy issues, this related to a question raised at a recent RDC meeting. The CEO explained the process, in that, the LSS guidance could be consulted, sometimes it is the professional judgment of trained staff to review the information presented by parties, as there is no set precedent, and each case is considered on its own merits. The DoR also advised that service is not based purely on legalistic practice provided, there is a breadth of differences that are taken into account which could be considered to be poor service provided by firms/solicitors. Members also enquired if a summary of QA findings would be presented to the Board. The DoR confirmed it would. The Chair enquired on the timescale for this. The CEO confirmed it would be presented when sufficient data had been gathered, it was anticipated this would be towards the end of Q2.

Members were disappointed to note that since being successful in obtaining a decree in a court order to obtain the legal files, the lawyer did not comply with the court order, and the legal team are now having to go back to court on failure to obtemper (comply with an order). It was also noted the court have yet to decide on fees. Members enquired whether this failure to comply had been raised with the LSS. The DoR confirmed it had. The Chair enquired whether this lawyer was still in practice and operating. The DoR confirmed they were, and legal counsel have been instructed to pursue on our behalf. The CEO advised this related to a Legal Aid firm who were not complying with a court order.

The DoBP reported that the Annual Accounts would be finalised to be returned to Deloitte by Friday 17 September and this will allow the Auditors to present to the AC meeting on 5 October. The DoBP agreed that the Annual Accounts would be circulated in advance to allow Members to consider the Annual Accounts fully prior to both the AC and Board meetings in October. The CEO reiterated that in terms of the 2007 Act, as Accountable Officer, these would be signed off by him prior to being laid in Scottish Parliament by end October.

Action: DoBP to circulate final draft Annual Accounts to Board to ensure full consideration prior to both AC and Board Meetings in October.

Reform and Change: ABS, Medium Term and Long Term

The DoPP spoke to the paper presented and reported most of the papers were included for reference and background information. Following which, the DoPP gave a brief update on each topic:

ABS – the DoPP reported it is understood the LSS have now resubmitted their draft regulatory scheme to SGvt to request approval. Though it was noted, the SLCC have not been formally advised of any details of the scheme, nor do we have any clear timescales for next steps.

Medium Term Changes – the DoPP reported following the consultation on proposals, SGvt were now drafting impact assessments and regulations for parliamentary scrutiny.

Long Term Reform – the DoPP advised they have, in the last week, met with various members of SGvt staff and it was expected that the consultation would launch late September/early October, and would run for 3 months.

The Chair sought clarification on whether there would be any staffing implications on these three projects. The CEO advised there would be, but it would not be immediate in relation to ABS, as the LSS would still need to be authorised as an approved regulator, and then start licensing new business models, these models would need to take on work, and then a complaint arise from that work. This might mean it takes approximately 1-1½ years for a complaint to be submitted, and possibly a further 3-4 years about a different approved regulator. The plans remain to be reactive, and 'over resource' initial complaints, as it could take a senior member of staff approximately 6 months to fully investigate the first case whilst finalising the process alongside. However, this was preferable to committing significant resource to hypothetical planning in advance, while it remains uncertain ABS will be implemented.

Members sought clarification in relation to Medium Term Changes, and whether this will have an impact on JT whether it remained long/high. The DoR confirmed it would, but it was hoped it would reduce slightly. The CEO reiterated that this would be monitored to fully to analyse the impact these changes will have on JT. The DoPP also reported that SGvt were considering a package of measures which would need taken together, as the knock-on effects could impact on the changes.

The Chair sought clarification on timescales for implementation of any changes on the Long Term Reform following the consultation period. The DoPP anticipated that it could be approximately towards the end of 2023/early 2024 before even any early changes were implemented. Full legislation and reform was likely not to impact until 2025/26. The Chair was disappointed to note these timescales, as it would seem unlikely that any of the current Members would see the output of any reform before they demitted from office. It was noted the Robertson Review commenced in 2017 and published in 2018, so Chair felt these timescales were very slow indeed. The DoPP confirmed that all points raised by Board during previous discussions would be fully considered, as was, also the need to ensure the principles were correct, before drafting a detailed consultation, in addition SMT responses would be reviewed by Board prior to submission. The CEO reiterated the need to be agile in this process, but input would be gathered from Board, thus ensuring the response to the consultation was submitted, well within the timescales set by SGvt.

Action: CEO and DoPP to ensure any updates are provide in future Key Issues paper.

Actions Register – Approved as read.

Board Minutes from 26 July 2021 Meeting – Approved as read.

Date of Next Meetings – Board Dev Session – Monday 18 October 2021 (14:00) and the Board Meeting – Tuesday 19 October 2021 (10:00)

The Chair requested that the Board Meeting be moved from Tuesday morning to Monday afternoon.

The Chair thanked everyone for their time and input on to the Conference Call.

Call ended 10.00am

Post Meeting Note – due to a further diary clash by the Chair, it has been agreed that the **Board Meeting and Board Development Session** would both take place on **Monday 18th October 2021**, from **1.30-5.00/5.30pm** with a comfort break in between.