

**MINUTE OF A BOARD CONFERENCE CALL OF THE MEMBERS OF THE SCOTTISH
LEGAL COMPLAINTS COMMISSION: 10am on MONDAY 20 MARCH 2023 on MS
Teams**

PRESENT:

LAY:

John Stevenson (Chair of this meeting)
June Andrews
Anne Gibson
Jean Grier

LAWYER:

Lynne Collingham
Dale Hughes
Richard McMeeken

Apologies:

Niki Maclean (Interim Chair)

In attendance:

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

[REDACTED] (Secretariat – minutes)
Vicky Crichton (DoPP)

Abbreviations used:

SGvt – Scottish Government
DoPP – Director of Public Policy
LSS – Law Society of Scotland
RPO – Relevant Professional Organisation
LPP – Legal Professional Privilege

DoBP – Director of Business Performance
DoR – Director of Resolution
FoA – Faculty of Advocates
CoS – Court of Session

Private Member only session, after which the Meeting Chair invited SMT and Secretariat to join the meeting at 10.10am

1. Welcome and Apologies

- 1.1 The Chair of this meeting explained, in the absence of the Interim Chair, Niki Maclean, he would be chairing the meeting and welcomed everyone to the Conference Call and noted apologies had been received from Niki Maclean.
- 1.2 The Chair also explained this meeting was to receive an update from SMT on Key Issues and to discuss the responses received to the Budget Consultation, which closed at 12noon on 16 March 2023.

2. Declaration of Interests

- 2.1 The Chair noted the standard declarations of interest declared by Lynne Collingham, Dale Hughes, and 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 agreed all items would be taken as read, with additional updates provided on specific matters.
- 3.2 **Board Member Appointments** – The CEO confirmed the new advert was now live, with SMT and the Oversight team being instrumental in promoting this on social media, including a targeted mailing via LinkedIn and other platforms. The Interim Chair has also produced a video, which is included and also on our website. Early indications from data ‘click rates’ is this is being well viewed. With initial statistical data showing there have been 17,000 views; 162 clicks onto our website to view the advert and video; with a further 11 clicks through to the SGvt Public Appointments advert for more information on how to apply for the Chair role. The DoPP will continue to monitor the statistical data for update at the next meeting.

- 3.3 The CEO explained SGvt have funded a Chair Recruitment Event, which will take place tomorrow evening, 21st March at 6pm. This will be hosted and facilitated by Changing the Chemistry (CtC). It will include: CtC President, Julie-Anne Jamieson; our CEO, Neil Stevenson and Interim Chair, Niki Maclean; SGvt Sponsor Team, Team Leader, Alison Dewar and the Chair of the Board from Crown Estates Scotland and member of CtC, Amanda Bryan. It is hoped there will be a good uptake for this event, which in turn will lead to more applications being received for the role of Chair.
- 3.4 **Social Impact Pledge** – Members noted the SLCC have recommitted to the Social Impact Pledge scheme.
- 3.5 **Reform** – The DoPP confirmed they were continuing to liaise with SGvt on the new Reform Bill, and it is anticipated this will be introduced by the end of June 2023 before the summer recess.
- 3.6 Members noted the Independent Review commissioned by the New Zealand Law Society have published its final report. It states legislative and structural change is required and recommends the establishment of a new independent regulator and an overhaul of their system for handling complaints about lawyers. The NZ Law Society have stated they will review the report and will make recommendations the NZ Minister for Justice by the end of July.
- 3.7 The CEO forewarned Members there might be a need to hold an additional Board Conference Call once the new Bill has been shared by SGvt. Members agreed and noted this.
- 3.8 **ABS** – Members noted the current position, and that, the DoPP has again chased the LSS for a response to our request of 21 December 2021, for the details of how they intend to operate the scheme. Members noted their disappointment that there was still no response from the LSS to this request.
- 3.9 **Communication and Stakeholder Engagement** – Members noted the recent communication engagement and sought an overview of the role of the Scottish Law Agents Society. The DoPP explained and gave a brief overview of this small voluntary body for members of the legal profession.
- 3.10 **Oversight** – Members noted the final report on the Law Society’s conduct complaint timescales had now been published, along with three statutory recommendations for improvement. The LSS have issued a statement saying the report “underlines the need for substantial reform to the processes for handling legal complaints” but did not comment on the statutory recommendations or whether they intend to comply with them. Members noted their disappointment that there had still not been a formal response from the LSS.
- 3.11 **Cyber Update** – The DoBP advised they had received funding for pre-Cyber Essentials assessment exercise and were now awaiting the outcome of this exercise. Members noted they had been reminded to update their laptops. The DoBP reminded Members that these should be done regularly, and only if they are by way of a ‘pop-up’ from the system. The DoBP reiterated they should not be done by clicking on a link within an email, as this was most likely a phishing/scam email.
- 3.12 **S17 Work Update** – Members noted the current situation on S17 complaints. The DoR advised the LSS have provided guidance to their profession on their specific rule change, which is now on the LSS website.
- 3.13 The DoR advised the S17 case which resulted in the CoS decision on LPP, and confidentiality is now being investigated. The DoR advised it is still considered that there is some confidential information (to which we are entitled) which has been withheld as LPP and that we require to view before we can make a recommendation, and as the firm are not engaging with us, we have instructed our legal agents to contact them.
- 3.14 Members also noted a Board development session will take place in April on the definitions of LPP and confidentiality.
- 3.15 The CEO advised they have also met, at their request, with members of the profession i.e. LDU etc., on this topic.

- 3.16 **Property Project Update** – The CEO confirmed, following the last Board meeting, the project recommendation had been made to the Minister. This is still being considered by the SGvt Sponsor and Property teams. Members noted there had been last minute discussion about another publicly owned property which might have been suitable. However, it was likely that after further discussion it would not be deemed suitable. The DoBP advised the pre-works planning were in hand and would be implemented as soon as SGvt approval was received. It was agreed the CEO would update Members once the decision has been made.
- 3.17 **PCS** – Members noted the current position and the DoBP would provide an update in due course.
- 3.18 The Chair thanked SMT for their updates to the paper presented.

4. Draft Budget and Operating Plan Consultation document for 2023/24

- 4.1 The Chair advised this paper would be discussed in detail, giving due consideration to all the consultation responses, and after discussion, Members would be asked to formally approve the final draft Budget.
- 4.2 The DoPP confirmed the consultation was launched on 26 January 2023 and formal letters were sent to all key stakeholders:
- The Law Society of Scotland
 - The Regulatory Committee of the Law Society of Scotland
 - The Faculty of Advocates
 - The Association of Commercial Attorneys
 - The Scottish Government
 - The SLCC Consumer Panel
 - The Competition and Markets Authority
 - Consumer Scotland.
- 4.3 The consultation was also published on our website and released in a press statement.
- 4.4 Board noted responses had been received from:
- The Faculty of Advocates
 - The SLCC Consumer Panel
 - Consumer Scotland
 - The Law Society of Scotland.
- 4.5 The CEO confirmed the Interim Chair, DoPP and CEO met with representatives from both the SGvt Sponsor Team and the FoA. Both meetings were constructive. It was noted that no formal response from SGvt or the Minister had been submitted for the Board to consider.
- 4.6 Board confirmed they had considered all the submissions received to the consultation. Board discussed each paper in turn, noting the summaries and issues highlighted in the paper presented by SMT. Members had a free and frank discussion on the points raised in each of the responses, moving through them each issue by issue and discussing each point raised.
- 4.7 Members asked about the LSS comparisons between the proposed budget figures and that of the 2016-17 budget, as it is not clear why this particular year has been chosen by the LSS. The CEO noted two issues with the comparison. Firstly, this was the last year prior to the SLCC charging principles in private practice more but reducing the levy for others. This was based on a policy that partners could influence quality and how complaints were handled. The second factor was the LSS had picked one of their mandatory fee elements alone (the PC) and not the full set of mandatory fees a partner in private practice has to pay, which would be a more valid comparison, and covers the services LSS lists in its letter.
- 4.8 The Chair reiterated the core function of the SLCC was not just complaint handling, but that it has a wider statutory function. Members agreed.

4.9 Members discussed in detail the proposal to set the Complaint Levy at £7,000 for S17 breaches. If it was not done now, the next opportunity to implement would be July 2024. It was noted that the Society felt there should be further consultation, and that there was an opportunity to offer to work in partnership with the Society. The CEO noted that a solution would be to raise the complaint levy to £7000 in terms of the statutory position, but then in our discounts policy, which could be updated at any time, apply an automatic £2000 discount until such time as the consultation had taken place. If, following consultation, the Board still supported the change this would allow a quick move to the £7000 maximum. If not, then the £2000 discount policy could stay in place until July 2024, and our consultation in January 2024 could be predicated on moving the maximum back down. The Board agreed there was a positive opportunity to work collaboratively on consultation, since this had been raised by LSS, and that we should not miss this. The Board agreed with this approach.

Action	Owner	Due Date
SMT to consult with the LSS in order to seek the views of the legal profession, regarding the implementation of imposing a Complaint Levy of £7,000 on all firms who do not comply with S17 requests for files. Consultation to be complete to allow a decision at the July Board.	SMT	24 July 2023
The Complaints Levy Policy to have a temporary discount of £2000 added to all complaints from 1 st July, to maintain at top rate of £5000 as a matter of policy.	SMT	30 June 2023

4.10 Members discussed in detail the proposed Approved Regulator Fee £10,000. The Chair noted the LSS have again advised they plan to launch/open this scheme for applications soon, but do not give a definitive date of when this will be. The CEO confirmed SMT have continued to prepare for the launch of this scheme with several activities this year including the rules consultation (and all the supporting legal advice on this).

4.11 Board noted the response received from the FoA, in that, they disagree with an increase to the general levy which appears to be driven, largely in part, by a significant increase in complaints raised against other legal professionals. Members acknowledged this point and agreed whilst advocates equate to a smaller branch of the profession, the costs to investigate complaints are the same across both regulatory bodies. Board agreed that solicitors within firms highlight to clients, that if they were unhappy with the service provided by their firm, then their recourse would be to raise a service complaint with the SLCC. However, it was not clear if this was the same for an advocate. Board acknowledged that both professional bodies deal with high profile conduct complaints. It was also noted that many of the drivers of cost were driven by inflation and the SGvt pay deal, and therefore needed to be apportioned to all funders.

4.12 The CEO noted a fundamental review of levies and apportionment would be needed under the new legislation, and we would need to consult on this.

4.13 Board noted the positive responses received from both Consumer Scotland and the SLCC Consumer Panel. In particular, both welcomed the opportunity that they will continue to work together to advocate for consumer rights. With the focus on users of our service, allowing for it to be accessible to all those accessing the complaints process. Both, Consumer Scotland and the SLCC Consumer Panel are concerned about the impact of delays in securing files to investigate complaints, along with the time and costs attached. As this is not in the interests of consumers who are looking for swift resolution to their complaints. Both, also look forward to further engagement and contribution in the forthcoming Reform Legislation Bill.

4.14 After consideration, the Board formally confirmed and approved, the draft Budget and Operating Plan and noted the following would apply:

General Levy would be set at	£484
Complaint Levy would be set at	£7,000
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

- 4.15 The Board confirmed their approval of the listed suggested discounts from the General Levy for different practitioner groups, as detailed below:

Actual General Levy Set	£
Private Practice Solicitors +3 Years (Principals/Managers)	484
Private Practice Solicitors +3 Years (Employed)	393
Conveyancing or Executry Practitioner 3+ years	393
Solicitors in first 3 years of practice	166
Practising out with Scotland	129
In-house Conveyancing or Executry Practitioner	118
In-house Lawyers	118
Advocates +3 Years	186
Advocates in first 3 years of practice	156
Association of Commercial Attorneys	125

- 4.16 The Chair confirmed Board agreed to delegate authority to SMT to update and finalise the draft Budget, as per Board feedback, and Operating Plan, for it to be published by the timescales set.
- 4.17 The CEO confirmed all responses received to the Budget consultation would be published in line with the consultation process before the end of March, and that the Budget would be laid in Scottish Parliament by the end of April.
- 4.18 Members had a free and frank discussion on the suggested wording and responses to the consultation process. The CEO confirmed SMT would consider all these points when drafting responses. The DoPP advised they would also take forward the comments raised on firms who fail to engage with the SLCC and the impacts this has on consumers.
- 4.19 The Chair requested that SMT draft an appropriate communication as agreed by Board. The CEO and DoPP confirmed this would be drafted and shared with the Board prior to publication.

Action	Owner	Due Date
CEO/DoPP to draft an appropriate communication and to ensure that all responses are published on the website in line with the Budget Consultation process.	CEO/SMT	By 31 March 2023
CEO/SMT to finalise the draft Budget and ensure this is laid in Scottish Parliament, in line with our statutory timescales.	CEO/SMT	By 30 April 2023

- 4.20 Members thanked the CEO and SMT for their explanation to the papers presented.

5. AOCB

- 5.1 none.

6. Date of Next Meetings

- 6.1 Members noted the next full Board Meeting and Development Session will take place in person, in the Boardroom on **Monday 24 April 2023**, with lunch being provided.
- **Board Development Session will commence at 10am**
 - **Board meeting will start thereafter, with a short lunchbreak in between.**

7. Review of the Meeting

- 7.1 The Chair thanked everyone for their time and input on to the Conference Call and asked SMT and Secretariat to leave the call so that Members could hold a Private Member only session.
- 7.2 The CEO thanked the meeting Chair for stepping in for this meeting, in the absence of the Interim Chair.
- 7.3 With no other business the meeting concluded.

12noon SMT and Secretariat left the meeting

Call ended 12.10pm