

**MINUTE OF A MEETING OF THE MEMBERS OF THE SCOTTISH LEGAL COMPLAINTS
COMMISSION: 10.00AM TUESDAY 18th MAY 2021
VIA: ZOOM due to current lockdown situation**

PRESENT:

LAY:

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

LAWYER:

Frank Gill
Denise Loney
Kay Springham

Apologies:

Sara Hesp

In attendance:

Neil Stevenson (CEO) (Items 1-23)
Louise Burnett (DoBP) (Items 1-23)
Caroline Robertson (DoR) (Items 1-23)

[REDACTED] (Secretariat – minutes) (Items 1-23)
Vicky Crichton (DoPP) (Items 1-23)

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

1. Welcome

- 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 acknowledged that this was the first Board Meeting attended by our newly appointed Members, June Andrews, Frank Gill and Niki Maclean and warm welcome was extended by all.
- 1.3 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. Apologies

- 2.1 The Chair noted apologies from Member, Sara Hesp.

3. Declaration of Interests

- 3.1 The Chair noted the standard declarations of interest declared by Frank Gill, Denise Loney and Kay Springham in relation to any pecuniary interest with regards to budgetary discussions.
- 3.2 The CEO also advised there would be an additional note of declaration of interest on behalf of SMT and the Secretariat, this would relate to later discussions by Members on Agenda Item 13, on the staff pay claim. This was noted by the Board and recorded at point 11 within these Minutes.

3.3 The CEO also advised there would be an additional note of a declaration of interest for the item on member expenses. Again, this was noted by the Board and recorded at point 13 within these minutes.

4. Key Issues

4.1 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.

4.2 Coronavirus – Members noted the current position with regards to key staff and volunteers now accessing the office three days per week, on Monday, Wednesday and Fridays, to deal with mail etc. Staff are also able to book time slots to drop off/pick up case files on these days. The Chair sought an update on the remote phone testing system being trialed. The DoBP advised that the 1st stage of the pilot involving 10 staff, was now complete and the 2nd stage including an additional 13 staff was about to commence. This will result in 23 staff having access to remote phones utilising the Calls2Teams facility on their laptops and network. The 2nd stage involves a range of staff, CSOs, CIs, Corporate Services, Oversight and members of SMT. Feedback has been positive, with some initial teething problems but on the whole the system is working well. Teething issues have been quicker to resolve than on the previous system tested. Members were pleased to hear this. The CEO advised that other organisations also trialed different systems before trialling and settling on the Calls2Teams system. Members enquired if we will continue with the use of a ‘soft’ phone system, like Calls2Teams when we fully return to the office. The CEO confirmed SMT were looking at this as a potential long term solution, with the DoBP reviewing extra hardware to allow staff to fully operate this system. The DoBP confirmed an order had been placed for headsets for all staff. It was also going to be necessary to improve WiFi within the office.

4.3 Joint work with LSS on Interim Improvements to the Complaints System – Members noted the current position and the CEO and DoPP would continue to engage in this process, and provide Board with further updates at the July meeting.

4.4 Fit for Future / Scottish Government (SGvt) Working Party – Members noted the current position, that SGvt have still to appoint a new Cabinet and ministers before this project can be moved forward. The CEO and DoPP will continue to monitor and engage in this process. The CEO also advised new Members they would be given an overview at their Induction session next week.

4.5 Law Society / Master Policy (Locktons) – The DoPP advised that progress was continuing with LSS and Master Policy in the pursuit of redress for parties. It was noted that the outcome of the Master Policy brokerage tender has not been made public to date. For the benefit of new Members the DoPP gave a brief overview of the ongoing issues in pursuit of redress for parties.

4.6 ABS – Members noted the current position and again, the CEO advised new Members would be given an overview at their Induction session next week.

4.7 Communication and Stakeholder Engagement – Members noted the DoPP had two articles published reflecting on the impact of Covid-19 on the types and volume of complaints received over the past year. The DoPP reported it was positive to note that there was a very small number of complaints which related specifically to Covid-19 restrictions, despite the very significant challenges which firms faced and the sector were congratulated on this.

4.8 Members noted Oversight have been invited to repeat the co-delivered training session with the LSS CPD team on complaints as part of the New Partner course, again next year.

4.9 Members sought clarification on how lower incoming cases had been communicated with stakeholders. The DoPP advised this information was included in the budget consultation process, and was visible in quarterly stats shared with stakeholders under our formal information sharing agreements.

- 4.10 New Operating Model / Working Party Outcomes – The CEO reported that Members would be discussing this in detail at the July Board Development Session. SMT have had initial discussions with PCS union and staff reps, and have also started the process of staff engagement, with feedback being collated. SMT are also liaising to develop a training plan and have engaged with a leading provider, who specialises on remote and flexible working policies, to start the design of draft policies for consultation with staff. Members noted an independent IT consultant has also been appointed, to review the existing IT infrastructure, this is with a view to meeting the aims of the WP to have a future blended working model. The CEO advised the IT consultants will also liaise with NVT and CAS on technical data before producing their final report which will be presented to the Board.
- 4.11 The Chair suggested that Members considered the appendix paper on providing a resilient office culture for future working. It was noted when staff return to the office it will be culturally different, there will be more hot-desking, changes to the office layout, and SMT are starting the journey of utilising the office in a different way. The DoBP advised they have also considered leasing furniture, however the consultants Form Design are having difficulty sourcing lease suppliers in Scotland. Members noted a further update would be provided at the July Board meeting.
- 4.12 Oversight – Members noted the update provided by the DoPP on the number of Handling Complaints received to date due to long delays of LSS investigations, and the pattern of delay which appeared to be visible. A free and frank discussion then took place on the option of issuing a S36 notice on the LSS in order for them to review their general process on timescales and to keep parties updated on delays to their investigations. The Chair enquired as to the difference between a S36 and S24. The DoPP explained S36 applied to the general process on timescales, whereas S24 was case specific and allowed the option to make awards of compensation, for inconvenience and distress for delays etc., if complaints are upheld at the Handling stage of investigations. S36 powers also included a power to audit cases.
- 4.13 Members sought an update on the LSS request for the secondment of CIs. The DoR advised that as we were unable to provide any additional resource to support the LSS at present, and noted that the LSS advertised for external Reporters and it is understood they had a good response to this recruitment. The DoPP advised they would be meeting with the LSS's new Head of Conduct Complaints in the next few weeks to review trends, which might help the LSS to move this forward and assist them with reviewing their processes.
- 4.14 Members sought clarification on whether there was a typographical error in the data provided by the DoPP, as it states a complaint has been 15yrs being considered. The DoR and DoPP advised the date was correct and not an error. The DoR gave a brief overview of this particular case.
- 4.15 Election Manifestos – The CEO advised that the Scottish Parliament results were now known and it was anticipated that the new Cabinet Secretary and Minister would be announced by Thursday.
- 4.16 Cyber Update – The DoBP provided an update on the cyber security attack on SEPAs services. Members noted that cyber security would also be included in the new IT Audit. Members sought clarification on the laptop encryption. The DoBP advised this would be included in future models.
- 4.17 Process Improvements – Members noted the update to date on various process improvements and sprints.
- 4.18 Accessing contact information for Solicitors – The CEO explained the current process to Members. Following a free and frank discussion it was agreed that SMT would obtain legal advice before expediting this issue forward in order to obtain resolution with the LSS. It was noted, that Board were in agreement with the SMT proposals provided in the paper presented.

Action	Owner	Due Date
SMT to obtain legal advice relating to the SLCC's request of data regarding Solicitors on the roll and the ability for the SLCC to contact them when the LSS will not provide contact details for them.	CEO	28 May 2021

- 4.19 WP a Resilient Office – Members noted the paper presented and the changes to the current office layout. The CEO advised that in order to allow for 2meter distancing working, some items for furniture had been moved into the Members room for storage. The WP Chair sought clarification on whether there was scope within the CEO function to purchase trial furniture utilising the current budget surplus. The CEO confirmed this would be the case, if Board were content with the suggestions in the paper. Members also sought clarification on office ventilation. The DoBP advised an update would be provided by H&S at the next meeting. It was noted that additional testing kits have been purchased to check the air quality from the air conditioning system and windows have also been opened to increase ventilation when staff are in the office.
- 4.20 All other updates within the paper were noted by Members. The Chair thanked the SMT for their updates to the paper presented.

5. Q3 Long Term Trends and Management Information to 30 April 2021

- 5.1 The DoR spoke to the paper presented and advised overall all areas were performing well, incoming is also on track to match last year and WIP has reduced. Members noted that productivity was at the forefront and acknowledged the training cycle for CIs to become fully trained and wondered if SMT were happy with the balance between resilience and productivity for CIs. The DoR reported they were but acknowledged there would always be the capacity to do more, however this gave them the opportunity to upskill CIs, thus allowing the transition between various stages of the process, which gives greater flexibility.
- 5.2 The Chair sought clarification on the year-end projection figures and whether these would be similar to those predicted. The DoR confirmed they would for incoming, and WIP would be lower with cases still moving forward through the system well, and JT low. Members noted that there were still delays of firms providing their business files to allow Investigations to commence.
- 5.3 The Chair enquired if the QA system was bedding in well. The DoR reported it was, with information being captured for reporting and analysis. The CEO advised that within the Operating Plan Quality Framework, this will be reported to the Board quarterly. The operating plan for next year (Jul 21 to Jun 22) also builds in a review of the system, with Board involvement. Members also noted the standardisation of titling documents and how they are recorded on Newpro had improved. The CEO advised this was a Sprint project and SMT were pleased that Board were now seeing the results of this in documents being considered at DC stage.
- 5.4 The Chair sought an update on the 'oldest' cases in the system. The DoR confirmed there were 7 cases in this category, the oldest being a 2012 case. This is a HCF at the LSS, with various additional issues being added. The DoR advised the additional issue work has been completed by the SLCC and the case has been returned to the LSS. The DoR gave a short overview of the remaining cases. Members discussed the option of whether a case should be considered as vexatious by the constant addition of extra issues as a way to delay matters being concluded. The DoR explained that vexatious had to be judged on the complaint / issue against the firm, not in terms of behaviour with us. The DoR also explained the option of raising service delivery complaints and the unacceptable actions policy, this can limit how individuals can contact the SLCC etc. however, with regards to this particular oldest case, it has also moved from a CI to a SCI.

11.17am comfort break, meeting resumed at 11.25am

6. Q3 Appeals Update

- 6.1 The DoR spoke to the paper presented and Member, D Lonely explained that part of the Legal Chair Sprint process was that the Legal Chairs would have oversight of Appeals. The Legal Chairs would meet with the IMT/CIM lead on Appeals, to discuss current Appeal cases and to review the draft paper to be presented to Board.
- 6.2 Member, K Springham raised again the point about diversity on instructing counsel and requested the Legal Panel, should list three Advocates to be instructed, one of which should be a female, and this would ensure the diversity of instructing counsel. The DoR reiterated that this was requested at the meetings with panel members last year and the CIM was mindful of this when instructing counsel. It was noted that a female counsel had been instructed on the S17 notice enforcement. Members noted it was unfortunate that the DoR and CIM were having to be specific and direct with the legal panels by insisting on a female name being given. The Chair requested this information be captured within the Appeals Policy paper.

Action	Owner	Due Date
DoR/CIM Appeal Lead to include information on instructing counsel in the Appeals Policy paper to ensure that female diversity of instructing counsel is captured.	DoR	Q4 reporting

- 6.3 Members sought clarification on whether this Sprint would have any impact on the cost base of a case. The Legal Chairs thought cost control was difficult to capture within this process, as it was often difficult to get the legal panel to give a fixed fee for instruction. The Chair reiterated closer monitoring of costs incurred is the Board exercising their governance duty and explanations as to why they are incurring costs will give comfort to the Board.
- 6.4 The Chair thanked the Legal Chairs for their update and input on this project to date.

7. Q3 Finance Report to 30 April 2021

- 7.1 The DoBP spoke to the paper presented and reported the current position as at 30 April 2021, is showing overall, income is ahead on the year date to budget by £101,004 and expenditure is showing a saving of £406,255.
- 7.2 Members noted the Complaints Levy is currently £82,800 ahead of the budget to end of April, with the budget for year being set at £100k, this has been increased in the forecast based on the year to date actual.
- 7.3 Members also noted that staff salary costs are well under budget due to placing staff out on secondment and to not recruiting various vacancies as we adapt resourcing to the lower incoming numbers. There is also a saving on Reporter costs as this resource has not been used during lockdown, again due to lower incoming (and having internal resource).
- 7.4 The DoBP also reported that Members' salaries were also showing a saving, this was partly due to members not currently travelling for meetings and DCMs etc. However, now that the new members were now on board this will increase over the next few months (with additional time for induction and observation).
- 7.5 The Chair enquired if the projected outturn for 2020-21 was still on track to ensure that reserves held 3months of monies, which would be in line with the Reserves Policy. The DoBP confirmed they were.
- 7.6 The DoBP spoke to the projected forecast for 2020-21 and noted that SMT had worked hard to reduce overheads and trim back costs to ensure savings were made within the budget.
- 7.7 The Chair sought clarification on the projected numbers of practitioners within the Budget Assumptions for 2022-2023 to 2024-2025. The DoBP advised this was based on data from the LSS, but then averaged out over the next few years, and adjusted by us based on our past experience.
- 7.8 The Chair thanked the DoBP for the explanation to the papers presented.

8. Q3 Customer Feedback Update

- 8.1 The DoBP spoke to the paper presented and gave an update on Q3 response rate which was lower than predicted at 12%. The DoBP confirmed that the Survey Monkey Questionnaire goes out when a case is closed. This happens at all stages of the process. There was positive feedback at Eligibility stage, highlighting engagement from staff.
- 8.2 Members noted that there is a change to the feedback being gathered at Mediation stage of the process, so this data was not available at present.
- 8.3 The Chair requested that this paper be shared with the Consumer Panel. The DoPP advised it would be at their next meeting.
- 8.4 All other updates within the paper were noted by Members.

9. Risk Register Summary

- 9.1 The DoBP spoke to the paper presented and gave an update on the current Risks and advised, Risks 3, 7 and 12 had been reviewed and reduced following discussions at the recent AC meeting.
- 9.2 AC Members advised that the current highest risk was Risk 4, which related to cyber security.
- 9.3 Members noted the paper presented and thanked the DoBP for their update.

10. Q3 HR Update

- 10.1 The DoBP spoke to the paper presented and gave an overview of the current staff FTE numbers and explained staff secondments and maternity leave positions.
- 10.2 Members noted the paper presented included an update on: the proposed training plan for a blended way of future working; the results from the Equality & Diversity (E&D) survey; along with information on the new eLearning platform, which will see staff completing their annual GDPR and E&D training by the end of this month.
- 10.3 Members sought clarification on whether there was a likelihood that more staff would be lost externally through secondment opportunities which then led to a permanent job being offered. Both the DoBP and DoR hoped not but advised that the payment of higher salaries was a contributory factor. Members noted the current turnover rate was 8.72% to end of Q3 compared with 2019-20 year-end 19.83%.

11. 2021-22 Cost of Living Pay Increase

- 11.1 The CEO reiterated all staff present noted their conflict of interest on the Members discussion of this Agenda item.
- 11.2 Members noted and discussed the paper presented by the DoBP, which included the RC recommendation of the SGvt Guidance and pay the 2021-2022 cost of living increase in staffs' May Salaries. This was approved by the Board.
- 11.3 Members also noted the information on the PCS National and Local Pay Claim and that a meeting was scheduled between PCS and SMT later this month.

12. Update from Remuneration Committee

- 12.1 Members noted the paper presented.

13. Update of Members Expense Policy and Guidance and revised Members Expense Form

- 13.1 The CEO noted that all members technically had a conflict, due to receiving expenses. However, the Board was required to approve an expenses policy, and independent scrutiny was applied through internal and external audit.
- 13.2 The DoBP spoke to the paper presented and advised the Members Expense Policy had been updated to reflect current practice and the expense cost codes have also been reviewed.

- 13.3 Members had a free and frank discussion, during which they acknowledged the new form and layout was a great improvement on the current form. Members also raised concern that some of the suggested timings proposed for allocation to certain duties was very tight and certainly on the low side. Following this discussion, it was agreed the DoBP would review and amend the Policy and Guidance, along with the Expense Form.
- 13.4 Members also had a free and frank discussion on the requirement to record time spent on each case, when this was not the practice of CIs. Members of RC acknowledged they did not envisage the logging of this information to be a burden to Members and suggested that an example of this could be: *RDC9 – reviewed 4 cases, time taken = 4hrs*. The Chair reiterated there was an element of trust that information and time would be recorded accurately by each meeting attended.
- 13.5 Members were pleased to note the update on childcare allowance being included, which may be of benefit to other and future Members.
- 13.6 The Chair reiterated the DoBP to review and amend the Policy and Guidance document, along with the revised Members Expense Form to be updated at the July Board Meeting.

Action	Owner	Due Date
DoBP to review and amend the Members Expense Policy and Guidance, along with the revised Members Expense Form to update Board at the July Meeting.	DoBP	By 26 July 2021

14. Update from Audit Committee

- 14.1 Members noted the paper presented and the DoBP advised the IT Refresh IA now included VOIP in the medium term planning review by IA, and the AC also requested further research around the costs of Cyber Crime and insurance.
- 14.2 In the absence of the AC Chair, Members of AC gave a brief overview of the role of the AC for the benefit of new Members. This included: oversight of the External and Internal Auditors, EA – Deloitte were appointed by Audit Scotland, and IA – Azets our current; integrity of reporting, this includes FMR etc.; Strategic Risk Register; and ensuring that any cases of impropriety are properly investigated and the AC were pleased to report there were no issues of this nature at present.

15. Q3 2020/21 Operational Plan updates

- 15.1 The DoPP spoke to the paper presented and Members noted this provided the RAG rating for all projects in the current operating plan. The DoPP advised that of the 29 projects, 28 are currently in line with targets (Green), and one project is rated Red (significantly behind schedule &/or will not deliver by the end of the year). The Red rated project is Consumer Panel Project 3: research. This project was originally intended to deliver a piece of research focused on consumer expectations. Following discussion, Board approved this project being re-coded Grey (decommissioned/ purposefully delayed during the year) this is in recognition of the impact of the external environment on this project.
- 15.2 Members noted the paper presented and thanked the DoPP for their update.

16. Membership of Remuneration Committee and Audit Committees

- 16.1 The Chair advised following discussion during the Private Member only session, it was agreed that Member, N Maclean had agreed to continue as Chair of the RC, with Members, S McLuckie and J Andrews also joining this committee with immediate effect. The Board waived the requirement for an external member on the RC while the Board transition took place.
- 16.2 The Chair also advised the appointment of a new external member to RC would be revisited in January, to be considered along with the appointment of new Members to the Board.
- 16.3 It was noted the membership of both AC and RC would be reviewed in January 2022.

17. Board Actions Register

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

18. Minutes of Previous Meeting from 23 March 2021

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

19. Chair's Report

19.1 The Chair advised there had been no meetings to report on.

20. Meeting Schedule for 2022

20.1 Members noted the proposed dates and agreed the schedule for 2022.

21. Date of Next Meetings

21.1 The Chair advised that there would be a switch to the Board Meeting and Development Session in July, this was to accommodate an external presenter at the Development Session.

21.2 Members noted the dates of the next meetings as:

- Board Meeting will take place at 2pm on Monday 26 July 2021.
- Board Development Session will commence at 10am on Tuesday 27 July 2021

21.3 The Chair advised it was anticipated that these meetings will continue to take place remotely due to SGvt guidelines.

22. AOCB

22.1 none.

23. Chief Executive's Report

23.1 The Board noted the paper presented.

12.25pm the CEO, DoBP, DoPP and Secretariat left the meeting

A Private Member only session took place.

24. Review of the Meeting

24.1 With no other business the meeting concluded.

12.40pm Board Meeting ends