

**MINUTE OF A MEETING OF THE MEMBERS OF THE SCOTTISH LEGAL COMPLAINTS
COMMISSION: 1pm on MONDAY 24 July 2023 in the SLCC Boardroom**

PRESENT:

LAY:

Niki Maclean, Vice & Interim Chair
Anne Gibson (*online*)
Jean Grier
John Stevenson (*online*)

LAWYER:

Lynne Collingham
Dale Hughes
Richard McMeeken

Apologies:

June Andrews

In attendance:

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

Louise Burnett (DoBP)
Caroline Robertson (DoR)

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

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
RC – Remuneration Committee

1. Welcome and Apologies

1.1 The Chair welcomed everyone to the meeting. Apologies were noted from Member, J Andrews.

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 Bill process/response by the SLCC.

3. Minutes and Matters Arising from Board Meeting on 24 April 2023 and Conference Call on 12 June 2023

3.1 The Minute of the Board Meeting was noted and approved as read, along with the Conference call notes.

4. Board Actions Register

4.1 Members noted the ongoing Actions and agreed all other completed actions should be removed from the register. Updates were provided on the following:

- 4.1.1 Action 482 – the CEO advised this would be arranged once the new Chair appointment had been confirmed with SGvt.
- 4.1.2 Action 509 – the CEO confirmed this would be discussed later in the meeting.
- 4.1.3 Action 515 – the CEO advised contact had been made with the prospective trainer, with dates to be confirmed.
- 4.1.4 Action 516 – the CEO advised SMT would be reviewing the Management Information figures for future reporting to Board.

- 4.1.5 Action 518 – the DoBP advised she will liaise with the CIM lead on appeals for this information to be included in future reporting.
- 4.1.6 Action 526 – the CEO confirmed this would be discussed later in the meeting.

5. Key Issues

- 5.1 The CEO spoke to the paper presented and agreed all items would be taken as read, with additional updates provided on specific matters.
- 5.2 **Chair Appointment** – Members noted confirmation was still awaited from SGvt Public Appointments Team on the name of our new Chair. The CEO advised that tentative dates have been scheduled for their Induction to take place early August with SMT and IMT. The CEO had hoped a new Chair would have been appointed in time to attend today, but as soon as the appointment is confirmed, this will be shared with Board.
- 5.3 The CEO advised Neil Rennick has been promoted to the post of Director General Education & Justice and the Interim Director of Justice is Cat Dalrymple. The Chair noted a meeting has been arranged with Neil Rennick for the annual discussion, with another meeting to be arranged between our new Chair and the Interim Director of Justice, when the Chair’s appointment is confirmed. The CEO advised the main contacts within the SGvt Sponsor Team remain unchanged.
- 5.4 **Reform** – Members noted this had been discussed in detail at the morning Development Session, and agreed future updates will be provided to Board. Members also noted the deadline for completion of Stage 1 (general principles) submission is set for 15 December 2023. It was agreed SMT will continue to bring a structured update on Reform to Board, covering progress, issues identified and risks, etc.
- 5.5 **ABS** – The CEO advised they were still awaiting an update from the LSS as to when they will be launching this scheme, and till then work continues in the background. The DoPP confirmed the LSS have again been chased for details of timescales and how they intend to run the scheme, to date there is still no response.
- 5.6 **Oversight** – The DoPP reported the Oversight team considered Boards feedback from the last meeting on making statutory recommendations and ensuring that we set out clear milestones and deadlines with the RPOs. The DoPP confirmed an update report has now been published, which includes the annual cycle of assurance and confirms that in March 2024, and each subsequent year after, until the recommendations are fully met, update reports will be published on the progress made by the LSS. The DoPP stated timescales will also be included in the FoA complaint handling analysis. Members noted we have received the first handling complaint about a FoA investigation since 2015.
- 5.7 **Digital and AI** – Members noted this had been discussed in detail during the morning Development Session. Board requested SMT draft a one-page statement on the goals around AI (a watching brief), to include the key items that SMT are exploring for Board assurance role.

Action	Owner	Due Date
SMT to bring forward a one-page statement on the goals around AI.	SMT	By 30 October 2023

- 5.8 **S17 Work Update** – The DoR gave an overview of the two recent obtemper hearings that took place and advised another case was due to be heard next month. Members noted they will receive an update at the next Board meeting.
- 5.9 **Property Project** – The DoBP updated Members on the current status of this project and confirmed they have now chosen the new furniture specification, having placed the order and paid deposits. The DoBP also advised the Wayleave was now with our legal advisors for final sign-off.
- 5.10 **Learning Review** – Following the helpful discussion at the June Board, the CEO advised the Process for Dealing with Appeals Against Decisions of the SLCC had been updated. Legal Chairs confirmed their agreement with the proposed changes to the process and Board confirmed their approval of the updated Policy.

Action	Owner	Due Date
SMT finalise the Process for Dealing with Appeals Against Decisions of the SLCC Policy.	SMT	ASAP

- 5.11 **Hybrid cases and Simultaneous Investigations** – The DoR advised that following various sprints and discussions with the LSS, it has been agreed to move forward to a system whereby all hybrid cases will be investigated simultaneously. The DoR confirmed IMT are amending the relevant processes to ensure that all new cases will be dealt with this way. The Chair enquired as to what would be happening to the ‘oldest’ cases which were already in the system and classed as Hybrid Conduct First (HCF) or Hybrid Service First (HSF). The DoR advised they were working closely with the LSS for these cases to be reviewed, and where possible, if electronic files are available, they too will be considered for this new process, thus being investigated simultaneously. The DoR acknowledged this process would take several months to be fully actioned, but in time should significantly impact the ‘oldest’ cases in the system, as these are often ‘hybrid’ cases. Members sought clarification on whether the decisions would also be issued ‘simultaneously’. The DoR thought not initially, as timescales at LSS meant it was likely in many or most cases we would complete out work first. The DoR confirmed the LSS have advised they will issue a holding letter to start with. The CEO acknowledged this would ensure we will have more control of timescales within our process, which in turn will aid the user experience and reduce journey time overall.
- 5.12 The Chair thanked SMT for their updates to the paper presented.

6. Management Information for Q4

- 6.1 The DoR spoke to the paper presented and advised the information presented for Q4 included the end of year reporting.
- 6.2 The DoR reported a strong yearend, achieving a low JT, but acknowledged the main challenge was WIP increasing, along with the backlog/waiting time at eligibility being over target. Following discussion at the last Board, SMT and IMT agreed to pursue additional CI resource to assist with this issue. The DoR confirmed an advert has been placed, which closes on 6 August. The DoBP noted to date there were 58 applicants. This is in addition to five maternity leaves who are due to return to the business in the coming months.
- 6.3 Members had a free and frank discussion on the impact that ‘backlogs’ and waiting times have on the overall user experience. Following this, Members agreed SMT and IMT would continue to monitor these targets for 2023/24 Q1 reporting, with a view to aiming closer towards the ≤ 2 weeks waiting time target.
- 6.4 The Chair noted the good performance overall for yearend and looked forward to receiving an update on the CI recruitment at the next meeting. The Chair also thanked SMT for their update to the paper presented.

7. Appeals Update for Q4

- 7.1 Members noted the paper presented and the DoR reported the CIM appeal lead was changing next quarter, and this would now be Stephen Chubb.
- 7.2 The Chair noted there had been 3 new appeals on eligibility decisions. The DoR confirmed answers have been lodged with the CoS on all 3 cases.
- 7.3 The Chair confirmed Members would be advised if they were involved in a case which was subject to an appeal.
- 7.4 Members thanked the DoR for their update to the paper presented.

8. Strategic Risk Register

- 8.1 The CEO spoke to the paper presented and advised Members that this had been discussed fully at the recent AC meeting. However, due to the timing of the AC meeting and the Board papers being issued, the RR presented was the one discussed at the AC meeting.

- 8.2 The CEO gave an overview of the AC discussions and confirmed the AC discussed the RR in detail. The AC acknowledged and agreed the Reform Bill will have an impact on various risks and these will be reviewed and updated accordingly.
- 8.3 The Chair reiterated the RR had been discussed in detail and advised risk 12 would be reviewed by SMT and will include splitting it down further to incorporate 'implementation' of the Bill.
- 8.4 The CEO advised the September update paper on the Reform, will include these particular Risks in more detail.
- 8.5 Members were content with the information provided and noted the paper as read.

9. Op Plan Update for Q4

- 9.1 The DoPP spoke to the paper presented and advised that of the 32 projects, 29 are complete. Two projects, U2 – Delivering clarity and P1.1 – Refocusing our job design, are rated 'grey', both were purposefully delayed and will be completed next year. One project, I4 – Increasing the effectiveness of oversight as a tool to increase quality, has been fully completed except for one element, and this has been rated 'red' for this reason. The DoPP report that significant work has been made on the progress of this outstanding element, and it is expected to will conclude in Q1 of 2023-24 Op Plan.
- 9.2 The Chair sought clarification on the date of the planned session with SRA (I4). The DoPP advised they were still working on the information sharing protocols and once they are agreed and finalised, a date will be set for Q1.
- 9.3 Board noted the strong performance for the 2022-23 Operating Plan. The CEO acknowledged that whilst SMT will focus on the Reform Bill consultation response, they will also include preparations for the transition period of the Bill. The Chair agreed with this approach, but stressed SMT need to be clear about which projects are being put on hold. The CEO agrees.
- 9.4 The Chair thanked the CEO and DoPP for their update to the paper presented.

10. Engagement with the Profession

- 10.1 The DoPP spoke to the paper presented and gave an update on the engagement work throughout 2022/23. Members noted the end of year public report which is due to be issued later this month.
- 10.2 The Chair sought clarification whether oversight would consider discussing with the profession next year on the obligations of firms to make reasonable adjustments for complainers. The DoPP agreed this could be incorporated. Members discussed the different needs of clients who might access the services of the profession, often at difficult times in their lives, and the profession needing to be mindful of the language used and making reasonable adjustments for their client's needs. The DoPP advised they have recently joined the Consumer Network, which also includes Consumer Scotland, who will ensure that consumer vulnerabilities are taken forward, along with our Consumer Panel.
- 10.3 The CEO and DoR advised the trainer used on the LSS accredited 'trauma' awareness course has been approached to run a similar course with our staff. The CEO noted staff are also given Reasonable Adjustment training, as part of the annual training cycle. The DoR also advised a CIM lead will now have responsibility for ensuring that reasonable adjustments are in place for all SLCC service users who require them. The Chair wondered if they will be recording the different types of adjustments that are made. The DoR noted whilst this new role had not been fully scoped, it could be considered, but at present any adjustments required are noted on individual case files on Newpro.
- 10.4 Members sought clarification on whether there was any feedback from the profession on the Terms of Business letters project which was published on 3 May 2023. The DoPP reported there was very little feedback on this project. The CEO reiterated it was difficult to follow up on feedback as the candidate attendee data is not shared with the SLCC. The DoPP agrees that it is easier to follow up with the profession on the sessions that the SLCC arrange.

11. Strategic Development Process

- 11.1 The Chair and CEO confirmed that Board were formally ratifying their earlier discussions from the Board Development Session. During which, Board will consult on a 'slimmed down' version of the 2020-24 strategy to cover the 2024-2025 transition period.
- 11.2 Board discussed elements to be retained and removed, with adjustments to wording around agility, accessibility and inclusiveness, with SMT to ensure the amendments reflect the relevance of the strategy to all our functions.

Action	Owner	Due Date
SMT to review the Strategy with a view to moving to a one-year strategy for 2024-25.	SMT	By 18 December 2023

12. Finance Management Report for Q4

- 12.1 The DoBP spoke to the papers presented and reported on the FMR spend to end June 2023, and confirmed there were a number of minor adjustments to be made for yearend. Advising these related to the holiday pay accrual and an accrual for the 2022-23 April to June pay claim, which has still to be finalised.
- 12.2 The DoBP advised the special project for the office move costs will continue to be shown separately, as requested at the previous meeting, and Members noted costs incurred to date. The DoBP confirmed timescales were on track for the planned move date.
- 12.3 Members noted the current Legal appeal costs and S17 costs.
- 12.4 The DoBP advised the EA would commence on 15 October 2023 and AC have also agreed to an additional AC meeting to approve the final accounts for yearend. The DoBP is canvassing AC members for availability.
- 12.5 Members thanked the DoBP for their update to the paper presented.

13. Customer Feedback for Q4

- 13.1 The DoBP spoke to the paper presented and gave an update on Q4 response rates. The DoBP advised there had been a number of duplicate responses which have been excluded. Reason being, they were all received on the same date, contained the same content and received over a specific four-hour timeframe. Indicating they were from the same complainer. Unfortunately, as no case reference numbers were provided, we were unable to fully investigate them.
- 13.2 The DoBP reported, excluding these duplicates, it still gave a response rate of 36% for Q4, this was up 50% on the 2021/22 average, which was 18%.
- 13.3 Members noted Service Delivery Complaints (SDCs) were up YoY, with 27 being received, compared with 26 in 2021/22.
- 13.4 Members wondered if SMT had considered if there was any particular reason for the increase in response rates. However, the DoBP did not know of any particular reason for this. The CEO reminded Board there was a project within the Op Plan that will review this data, which will be brought to Board, along with the data also being considered by the Consumer Panel as well.
- 13.5 The Chair enquired if there was a set of published service standards. The CEO confirmed there are a set of communication standards and timescales which must be met. Members discussed the feasibility of 'mapping' service delivery complaint (SDC) outcomes to these standards, as this might eliminate the 'other' classification. The DoR explained 'other' was used for SDCs which were 'niche' and do not fit into the other headings. Following discussion, it was agreed SMT would provide additional information to Board on the SDCs and outcomes.

Action	Owner	Due Date
CEO to provide a breakdown of the 27 SDCs to Board.	DoR	By 30 October 2023

14. Complaints Levy – Consultation Feedback

- 14.1 The DoPP spoke to the paper presented on the results of the recent consultation with the profession on the proposed update to the complaint levy policy.

- 14.2 Members noted there were 154 responses received to the consultation, which equated to just over 1% of the profession.
- 14.3 In particular, Board considered the responses to Q7 on whether a higher complaint levy charge should be imposed on a solicitor or firm who fail to respond to statutory notices etc. Of the 154 responses to this question:
- 99 (64%) agreed that a higher charge should be imposed,
 - 14 (less than 10%) who said there should be no higher charge, and
 - 41 (27%) who responded saying that we should not be charging a complaints levy at all.
- 14.4 Members had a free and frank discussion regarding the proposed revised wording and amendments to the complaint levy policy. Following which, it was agreed, the DoPP would share the updated document with Board.
- 14.5 Members discussed in detail criteria markers of when a full 'increased' levy of £7,000, under S28 of the Act, would be imposed. The DoPP and DoR explained the timescales involved in the process of notifying parties and before instructing any agents to pursue a solicitor or firm who fail to comply to statutory notices. Legal Members discussed in detail the use of a DCs discretion to apply a £5,000 levy instead of the £7,000, where a solicitor or firm fail to comply with statutory notice etc.
- 14.6 Following further discussion, it was agreed SMT would amend the proposed policy, with a draft being shared with Board, ensuring this complied with natural justice principles, to be brought to the next meeting to be formally approved.
- 14.7 Members also agreed SMT should work through the detail of the policy for implementation and application by way of a workflow/discount diagram, and for this also to be shared with Board for approval.
- 14.8 The Chair also suggested the outcome of the consultation, next steps be shared with the LSS, along with any communications and the amended finalised policy. The DoPP agreed this would be done in due course.

Action	Owner	Due Date
The DoPP and CEO to bring a revised/updated complaint levy policy to Board, along with an amended workflow/discount scheme to be applied by DCs, for Board to discuss and approve at their September meeting.	CEO/DoPP	By 11 September 2023

15. AOB

- 15.1 Health & Safety – the DoBP advised they have just received notification from the landlord that they would be starting work on the mezzanine area later this week. This means a partition wall will be erected at the top of the internal stairs to ensure no staff access this area whilst works are being carried out by contractors. The temporary kitchen and meeting area will again be moved backdown to the current breakout area. The DoBP confirmed all staff have been informed and all desks in the vicinity of this area will also be taken out of action for the foreseeable future to ensure H&S compliance and noise reduction.
- 15.2 2022/23 Pay Claim – the DoBP advised they have now received the initial PCS pay claim and gave a brief overview of this to Board. The DoBP stated they were still awaiting on confirmation of the full details from SGvt Pay Policy. The DoBP anticipates Board might need to confirm they have no objections to any proposal by email. Board agreed with this suggestion. Members sought confirmation that the SLCC were a living wage employer. The DoBP confirmed we were.

16. Note from the Remuneration Committee of 11 July 2023

- 16.1 Paper was noted as read.

17. Update from the Audit Committee of 17 July 2023

- 17.1 Paper was noted as read.

18. Minute from Consumer Panel of 7 March 2023

18.1 Members noted the paper presented.

19. Vice/Interim Chairs Report

19.1 The Chair gave a brief update on the meetings and the conferences attended along with the CEO and DoPP.

19.2 The Chair also reiterated they are awaiting the final announcement of the Board Chair from the SGvt Public Appointments Team to conclude this process.

20. Chief Executive's Report

20.1 Members noted the paper presented.

21. Date of Next Meetings

21.1 Members noted the date of the next meeting was a Board Conference Call on **Monday 11 September 2023 at 10am** to discuss themes for the Annual Accounts.

21.2 The next full Board Meeting and Development Session will take place in person, in the new office, the Forth Boardroom on **Monday 30 October 2023**, with lunch being provided.

- **Board Development Session will commence at 10am**
- **Board meeting will start thereafter at 1pm**

22. Review of the Meeting

22.1 With no other business the meeting concluded.

2.47pm the SMT left the meeting

Private Member only session, after which the Meeting Chair confirmed with the Secretariat the Board Discussion on item 23.

23. Chief Executive's End of Year Review 2022/23 and 2023/24 Targets for CEO/SMT

23.1 The Chair apologised for the late circulation of the paper for this discussion.

23.2 The Chair reminded Board they are required to confirm the CEO objectives for the coming year and agree with the Chair's appraisal of how the CEO has performed over the past.

23.3 The Chair also reminded Members that the first half of the appraisal year was approved by Board at the January meeting.

23.4 The Chair confirmed there had been a detailed discussion with the CEO on the engagement of SMT. Members acknowledged the CEO as a highly valued member of the team and Board has recognised his performance.

23.5 The Chair apologised for the late circulation of the paper for this Agenda item, and following discussion it was agreed that Members, if required, should submit any further written comments to the Chair after the meeting has concluded.

23.6 The Chair confirmed, subject to no further points being raised by Members outwith the meeting, that Members agreed with Chair's presented paper on the proposed EoY Annual Appraisal for the CEO during their private session.

3.00pm Board Meeting ends