

MINUTE OF A BOARD CONFERENCE CALL OF THE MEMBERS OF THE SCOTTISH LEGAL COMPLAINTS COMMISSION: 10am on Monday 11 September 2023 on MS Teams

PRESENT:

LAY:

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

LAWYER:

Lynne Collingham
Dale Hughes
Richard McMeeken

Apologies:

Jane Malcolm, Chair

In attendance:

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

Louise Burnett (DoBP)
Caroline Robertson (DoR)

Abbreviations used:

SGvt – Scottish Government	DoBP – Director of Business Performance
DoPP – Director of Public Policy	DoR – Director of Resolution
LSS – Law Society of Scotland	FoA – Faculty of Advocates
RPO – Relevant Professional Organisation	CoS – Court of Session
LPP – Legal Professional Privilege	

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 the absence of the Chair, Jane Malcolm. This was due to a commitment made prior to being appointed to the SLCC, which could not be altered despite best efforts, to allow the Chair to join by video conference. In line with the standing governance arrangements the Chair had therefore asked the Vice Chair to chair the meeting. The Chair welcomed everyone to the Conference Call and noted apologies had been received from Chair, Jane Malcolm.

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. 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 SMT propose this item be removed from the Key Issues update paper, as the new Chair was now in position and the next set of Member recruitment was not due to take place till mid-2025. This will allow SGvt Public Appointments team to prepare for the departure of Members who are due to leave 31 March 2026. Board agreed with this approach.

3.4 **Approval of the updated Performance Framework document** – Members noted AC had received, as part of the internal audit cycle, a good report from the IA on 'how performance was data is generated'. The only recommendation was for a documented overview of the whole system (rather than elements of it). The new Performance

Framework document provides an overarching statement, which gives a clear overview of the policies, processes, and practices in place to ensure the robust reporting of this data. AC approved the document in principle, but were conscious, that as this related to data presented to Board, then Board might also wish to review and approve the framework document. Board was content with the paper and happy to approve without further comment.

- 3.5 **Reform** – The CEO advised they had their first meeting with the SGvt on implementation, as well as a meeting with the lead Committee Convener and Clerk as part of the external engagement stage. These meetings went well. It is also understood SGvt will be speaking with other parties throughout this process. SMT are continuing to prioritise this work as matters evolve.
- 3.6 The Chair sought clarification on whether SMT had any indication in terms of a timetable to implement the Bill and firm commitment to funding being provided. The CEO understood it is likely this would not be until the Bill is formally passed by Parliament, but SGvt have a clear understanding of our budget funding cycle, and how this would feed into our budgeting. However, it is hoped that some ‘in principle’ or provisional agreement could be made as the end of the bill process neared. SMT have noted the level of risk would increase as plans progress for the finalisation of the Bill. Members discussed the implications that this would have on our future budget forecasting.
- 3.7 The DoPP agreed the meeting with the SGvt Committee lead Convener and Clerk was helpful, and they were keen to understand the experience for someone making a complaint and accessing this service.
- 3.8 The DoPP confirmed our submissions had been lodged with the Equalities, Human Rights and Civil Justice Committee and the Finance Committee, and these were published on our website, along with a short statement. Members confirmed they had read this.
- 3.9 Members noted there were 60 submissions received and published by SGvt in relation to the Bill. The DoPP advised there will be several roundtable events and the SLCC would be invited to attend one of them. The DoPP thought our roundtable will contain bodies who deal with complaints. The DoPP and CEO confirmed preparation work was well underway for this event. Members sought clarification on whether they could attend any of the online call for evidence sessions. The DoPP and CEO advised it is understood they could as they are public meetings and would send details when available.

Action	Owner	Due Date
SMT to provide details of the committee evidence sessions to Board, as soon as available.	SMT	ASAP

- 3.10 Members noted there were several responses which disagreed with the proposal for the removal of the external appeal route, and Board discussed the implications of this and messaging to support the SLCC’s decision.
- 3.11 Members noted the New Zealand Law Society has in principle accepted the recommendation to establish a new independent regulator and an overhaul of their system for handling complaints about lawyers.
- 3.12 The Chair thanked SMT for updating the Risk Register to include these new additional risks.
- 3.13 The CEO confirmed an update would be provided at the October Board meeting and SMT would circulate information on the committee evidence sessions.
- 3.14 **ABS** – The CEO advised they have, this morning, just been advised, this will be delayed again till next year. Members whilst disappointed noted the current position.
- 3.15 **Communication and Stakeholder Engagement** – Members noted the recent communication and engagement work.
- 3.16 **Oversight** – The DoPP advised they have, late on Friday (8th), now received the substantive response from the Convener of the LSS Regulatory Committee and will provide a full update to Board in due course. The DoPP noted the tone had been constructive.
- 3.17 **Cyber Update** – The DoBP advised there was no longer a requirement for server patching as this was now held in the cloud.

- 3.18 **Digital and AI Update** – The CEO presented the one-page summary of our approach to AI from the Board workshop session. The Board agreed this captured Board’s points from this session.
- 3.19 The DoPP advised they have been accepted onto the 2023 cohort of the Data Science Accelerator, run by SGvt. This is a 12-week programme that will provide a mentor and support for our Comms and Data Officer to develop a project. For this, we will be looking at extracting textual data from documents in our case management system to help deliver greater insight into complaint trends. The DoPP also advised, we have been accepted to participate on the next cohort of the SGvt’s Data Maturity Programme. Again, this will provide support for us to deliver our Op Plan project to carry out a data maturity assessment and work towards the development of a data strategy for the organisation. Board was pleased to hear this.
- 3.20 **S17 Work Update** – Members noted the current situation on S17 complaints. The DoR advised we are currently seeking another Commissioner as the Advocate originally appointed by the CoS was now too busy and unable to consider this work. The DoR advised we are now going back to the CoS with additional Advocate names, in the hope that one or more will be approved to be able to provide a review of the LPP file.
- 3.21 The DoR reported the continued case heard in the CoS last month (August), will now be reconvened for late November. It was noted we received the file two days before the CoS hearing. The DoR confirmed the investigation has progressed, with the decision being issued to parties.
- 3.22 Members noted the DoR was still waiting on the file for the 2nd S17 case where the solicitor was held in contempt. The DoR advised the file was due later this week, 14th September, but to date was still outstanding. Members sought clarification on whether the news article had been shared in other news forums as well as on our website. The DoPP confirmed it had also been picked up by the Journal, Scottish Legal News and Legal News as well.
- 3.23 **Property Project Update** – The DoBP reported it had been a very busy 3 weeks, with the Stamp Office now empty, as of Friday (8th). However, the DoBP advised the Capital Building opening has had to be pushed back by a week, due to unexpected delays on most of the furniture items. This is outwith Bureau’s control, as they have been let down by their supplier. The Wayleave has also been signed and we are still awaiting an install date. The DoBP explained, all permit works by Edinburgh City Council were on hold whilst the Edinburgh Festival was on, and it has been found there is a blockage on the line coming into the building. Temporary solutions are being explored for 5G routers to be installed to allow some staff to attend the office from 18 September for testing etc. The DoBP confirmed that all business services continue to run, with no impact to staff, service users or stakeholders. The Chair enquired if staff numbers would need to be restricted whilst working on the temporary 5G router and were there any additional costs relating to this temporary solution. The CEO confirmed Commsworld will provide one 5G router temporarily for free and it was agreed by SMT the DoBP would purchase an additional 5G router, at an approx. cost of £300. This will provide additional backup support, in cases of future emergency situations. Board agreed with this approach and congratulated SMT on this major project, acknowledging the slight delay in opening in the new office.
- 3.24 Members sought assurance that staff were engaged with the process of moving to the new office. The DoBP reported staff seem excited and those that had the opportunity to visit the new office during the transition move period, seem pleased and were looking forward to the new layout and office location.
- 3.25 **SLCC Sharing Best Practice** – Members noted the SLCC have been sharing best practice with other organisations presenting at the recent Ombudsman Association Conference, and from that having been invited to speak to the leadership teams of two other UK complaints bodies.
- 3.26 **Refreshing Our Customer Feedback** – The DoR thanked Members who took the time to complete the short survey on our feedback process. These responses will be used, along with other resources, when the SET team meet next month to consider the current process for review.

- 3.27 Members enquired if we respond to parties who provide feedback. The DoR noted that often feedback is provided anonymously and recognised it was difficult to do so in these circumstances. We do offer where details are provided, but often this is not taken up. Members acknowledged it was difficult to analyse this type of feedback.
- 3.28 **PCS** – Members noted the current position and the DoBP confirmed an update would be provided in due course.
- 3.29 **Evaluation of Current Strategy** – The CEO reminded Members this would be brought to Board in due course for a full discussion.
- 3.30 The Chair thanked SMT for their updates to the papers presented and confirmed Board noted the Annexe 1 – Responses from Board on Customer Feedback Survey, and approved the Corporate Performance Framework document, and the Policy Position on AI (October 2023).

4. Themes for Annual Report 2022/23

- 4.1 The DoPP spoke to the paper presented.
- 4.2 Members noted the key messages to be included and the DoPP reiterated Board should forward any additional points which have not been captured by SMT.
- 4.3 Following a free and frank discussion, Members suggested SMT might wish to include how we demonstrate value for money and strengthen our stakeholder engagement work. The Chair also suggested that we may wish to include accessibility of our service, in that, we tailor our communications and decisions to suit the needs of individuals.
- 4.4 The DoPP thanked Board for this input and advised it was hoped a draft would be presented to the October Board meeting.

5. Complaint Levy Policy

- 5.1 The DoPP spoke to the paper presented, and advised Members to aid the discussion, the document included tracked changes, and these changes incorporated the discussion from the last Board meeting.
- 5.2 Members had a free and frank discussion regarding the proposed wording of what constitutes a ‘reasonable offer’ being made by a firm. The DoPP drew Members’ attention to the revised tariff table and explanations included in the Policy.
- 5.3 Further discussion took place regarding the layout of the tariff table, which Members felt was a bit confusing. Following which, it was agreed the DoPP would review this with the Clerking Manager.
- 5.4 Members also had a free and frank discussion regarding what constitutes ‘exceptional circumstances’ and discussed the feasibility of whether it would be helpful to have a list of categories. However, following this discussion, it was agreed it would not be feasible to have a list of ‘exceptional circumstances’ categories.
- 5.5 It was agreed that the DoPP would revisit the Complaint Levy Policy to take account of the points raised by Board, to include reviewing the tariff table to make this clearer, clarifying cost recovery costs. Subject to those changes the policy was approved, and the executive asked to finalise implementation. It was also agreed Board Members would flag any cases which they are applying ‘exceptional circumstances’ to reduce the levy at Determination stage.

Action	Owner	Due Date
The DoPP and CEO review the revised complaint levy policy and send the finalised version to Board members for information.	CEO/DoPP	ASAP

- 5.6 The CEO thanked Board for their discussions, and reiterated this Policy had to be as fair as possible, but also it shows challenges raised in the current Act.

6. AOCB

- 6.1 Names of Members being released on Determinations under FOI/SAR and concerns being raised by Members on this matter. Members gave their personal experience as to why they were raising this concern about their individual names being released in single decisions, explaining they had previously been subject to unsolicited pursuance by an unhappy individual and did not wish the same thing to happen at the SLCC.
- 6.2 The CEO explained that all staff are named throughout the process, and whilst we do not automatically release the names of Members who make the Determination decisions, we have previously had advice, that where it is for FOI/SAR purposes, then they would be released. But we would always advise Members that we have had such a request, which is what happened in this case. The CEO was clear to stress, that if the SMT/IMT thought there was any threats being made in these requests, then legal advice would be obtained before any information was released. Members understood they were public office bearers and that there would be times where their names would be released if a FOI/SAR had been made.
- 6.3 The CEO also noted that he would include this in future Board Member Inductions. The Chair reminded Members that compliance with FOI/SAR are defined by the Information Commissioners.

7. Chief Executives Report

- 7.1 Members noted the paper presented.

8. Date of Next Meetings

- 8.1 Members noted 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**

9. Review of the Meeting

- 7.1 The Chair thanked everyone for their time and input on to the Conference Call.
- 7.2 The CEO thanked the meeting Chair for stepping in for this meeting, in the absence of the Chair.
- 7.3 With no other business the meeting concluded.

Call ended 12.13pm