

**MINUTE OF A MEETING OF THE MEMBERS OF THE SCOTTISH LEGAL COMPLAINTS
COMMISSION: 2pm on MONDAY 24 APRIL 2023 in the SLCC Boardroom**

PRESENT:

LAY:

Niki Maclean, Vice & Interim Chair
June Andrews (*online*)
Jean Grier
John Stevenson (*online*)

LAWYER:

Lynne Collingham
Dale Hughes
Richard McMeeken

Apologies:

Anne Gibson

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

Private Member only session, after which the Meeting Chair invited SMT and Secretariat to join the meeting at 2.10pm

1. Welcome and Apologies

1.1 The Chair welcomed everyone to the meeting.

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 23 January 2023, Conference Calls on 16 February 2023 and 20 March 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.
- 4.2 Action 462 – the DoBP advised this information had been added into the Appeal paper showing the cost to date figures on each individual appeal case.
- 4.3 Action 498 – the CEO confirmed this had been added to a future BDS topic.
- 4.4 Action 509 – the DoPP advised this will be ongoing, with the delegated powers of enforcement being given by Board to SMT to proceed with the temporary discount of £2,000 to all complaints from 1st July, until the consultation had concluded.

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** – The Chair advised there had been a good response to the recruitment advert and gave a brief overview of the interview process. The Chair confirmed interviews would take place on Thursday 11 May 2023. The CEO hoped a new Chair would be appointed in time to attend the July Board meeting.
- 5.3 **Ombudsman Association (OA) Conference** – Members noted the CEO and DoPP were attending the UK OA Annual Conference on 19-21 June, in Birmingham to present on ‘backlog busting’. Members looked forward to hearing how this went after the event.
- 5.4 **Reform** – Members noted this had been discussed in detail at the morning Development Session and future updates would be provided to Board. Members agreed with the SMT proposal to bring a short, structured update on Reform to the Board (key issues, or separate as appropriate) covering progress with the Bill, issues identified, risk, etc.
- 5.5 **ABS** – The CEO advised the latest update from the LSS in February indicated they are still planning to launch, but now early June instead of spring as previously advised. We The CEO reiterated work continues in the background in anticipation of the launch. The DoPP advised the LSS have again been chased for details of timescales and about how they intend to run the scheme, and there has been no response to date.
- 5.6 **Communication and Stakeholder Engagement** – The DoPP gave an overview of the Board’s decision on proposing to introduce a higher complaint levy for those firms who do not respond to statutory requests for files etc. The DoPP confirmed they wrote to the LSS asking them to work with us to deliver the LSS’s request for further consultation on this issue. LSS agreed and jointly developed a consultation, which the LSS issued to their members. The DoPP confirmed this consultation was also sent to FoA and ACA to ask them to share it with their members. The DoPP reported to date there have been 148 responses. The DoPP gave an overview of these mixed responses. Members had a free and frank discussion on the views of a practitioner who might feel penalised with a levy being imposed. Especially when they offer to settle and the only reason a case moves to determination is because the complainer is often not happy with the offers made, then the firm are then they are hit with a ‘high’ levy imposed on them. Members did also note that the to go to Determination was a legal right for citizens, and that the act allowed the levy to also be charged at investigation (but we currently waive this to encourage settlement). Members sought clarification on when the consultation outcome would be finalised. The DoPP noted no formal closing date had been set, but this would be done, and the full outcomes being presented to the July Board meeting.

Action	Owner	Due Date
Set up structured reporting on progress with Reform and bring first report to the June meeting.	DoPP	By 12 June 2023
The DoPP to provide the outcome of the Complaint Levy consultation on imposing a ‘high’ levy for non-response to statutory requests from the SLCC to the July Board.	DoPP	By 24 July 2023

- 5.7 **Oversight** – The DoPP reported they were still waiting on the LSS response to the final report. Members noted the LSS had issued a statement in response to the publication. The DoPP confirmed they have written to the LSS to remind them of their requirement to respond to the recommendations by the end of April. The DoPP also advised they plan to publish the report on firms’ Terms of Business letters, and it will focus on the compliance with requirements of LSS Rule B.4. This will also be accompanied by a comms campaign to encourage firms to check their Terms for compliance.
- 5.8 The Chair requested that SMT ensure that Board input is obtained when required on the key areas of the Reform Bill. The CEO and DoPP confirmed it would be and they would bring forward further thinking on how this can be achieved to the June Board.

Action	Owner	Due Date
SMT to bring forward further thinking on how Board can be engaged on the reform process.	SMT	By 12 June 2023

5.9 **S17 Work Update** – Members noted the current status of the S17 case in respect of legal professional privilege (LPP) and confidentiality, and where another firm has also failed to engage with the S17 process. The DoR gave an overview of the recent obtemper hearing that took place on 14 April 2023. Members noted they will receive an update at the next Board meeting. The CEO and DoR confirmed a standard process in dealing with S17 cases will be developed to produce written guidance on LPP and confidentiality. Members found the morning Development Session on LPP and confidentiality informative.

5.10 **Trauma Aware Design Training** – The CEO advised SMT were working with specialist providers and charities in this area to provide training to staff on supporting people in these circumstances. Once we understand what these different groups can offer, we will consider their involvement in reviewing policies and processes. The Chair noted Board might also be interested in this training, and it was agreed information on trainings would be shared with Members.

Action	Owner	Due Date
SMT to share information on Trauma Aware Design Training when details are finalised.	SMT	End Q1 (Sept 23)

5.11 The Chair thanked SMT for their updates to the paper presented.

6. Management Information for Q3

6.1 The DoR spoke to the paper presented and advised that the information presented had been amended to incorporate quarterly reporting.

6.2 The DoR noted the AC had enquired whether the reduction in mediation spend was a direct result of fewer mediations taking place, and whether this drop was abnormal or a concern. The DoR advised numbers were inclined to fluctuate and they were down YoY, they were not giving cause for concern. This has been added as a future project in the Op Plan next year. Members wondered if it was complainers who were refusing to engage in the mediation process more than practitioners. The DoR intimated it was equally both, but this analysis would be included in the project.

6.3 The Chair noted the backlog was down this quarter, for the second quarter, and now only sitting at the eligibility stage of the process and wondered if the CI resourcing was back to normal levels. The DoR advised, that whilst some of the new CIs were still undergoing training, we have more staff who had been on LTS, and staff being retrained in a different area were slowly but steadily returning back to their normal work levels.

6.4 Members had a free and frank discussion on the KPI objective of WIP ≤ 600 being reviewed. The DoR reminded Board this target was part of the CEOs annual objectives set by Board. The CEO confirmed this would be reviewed during his annual discussion with the Chair.

6.5 Members also discussed the Waiting Time target ≤ 2 weeks and following further discussion, it was agreed the data label legends should be updated for clearer explanation to the figures presented. The CEO also suggested SMT could review the Management Information paper for 2023/24 Q1 reporting. Board agreed.

Action	Owner	Due Date
SMT to consider reviewing the presentation of future Management Information reporting from 2023/24 Q1 onwards.	CEO/DoR	By 20 October 2023

7. Appeals Update for Q3

- 7.1 Members noted the paper presented and sought clarification on where instances of expenses are awarded to the SLCC, how many actually pay these expenses and were they ever recoverable. The CEO thought it was an extremely poor rate, possibly one in five cases. The DoR explained specific legal firms are used for the recovery of expenses process. Members had a free and frank discussion on the success and recovery of expenses awarded to the SLCC.
- 7.2 Members sought further clarification on a recent determination decision appeal, and it was agreed, the CEO would seek further clarification from the CIM appeal lead, on the internal meeting with legal advisers and feedback to the Chair and Legal Member concerned.

Action	Owner	Due Date
CEO to seek further clarification from CIM appeal lead and provide an update to the Chair.	CEO	By 12 June 2023

- 7.3 The Chair requested the CIM appeal lead include the dates of when costs are awarded and paid, and for these to be added for Q4 reporting.

Action	Owner	Due Date
DoR to request the CIM lead on appeal include dates of when costs are awarded to the SLCC and when they are actually paid/received.	DoR	By 24 July 2023

- 7.4 Members thanked the CEO and DoR for their update to the paper presented.

8. Strategic Risk Register

- 8.1 The DoBP spoke to the paper presented and advised Members this had been discussed fully at the recent AC meeting. Following this meeting, risks 1 and 5 had been reduced, with the explanatory wording of risk 5 being updated for today's meeting. The DoBP also reported risks 6, 8 and 10 have been reduced, risk 4 has been updated and risks 2, 3, 7, 10, 11 and 12 remain unchanged. The CEO confirmed following the discussions at the morning Board Development Session, it was agreed risk 12 would be reviewed and updated by SMT. The Chair reiterated the RR had been discussed in detail at the AC meeting last week.
- 8.2 Members were content with the information provided and noted the paper as read.

9. Op Plan Update for Q3

- 9.1 The DoPP spoke to the paper presented and advised that one project, P1.1 – Refocusing our job design, is rated 'red' and will not be delivered by the end of this year. This is because the job descriptions are being reviewed but will not be issued to staff until after the office move, as T&Cs will also need updated around the location of work. Board agreed this would be delayed and moved into Q1 for 2023/24 reporting. The Chair agreed it was justifiable to carry this project forward into the new Op Plan.
- 9.2 The Chair also suggested that the DoBP might wish to include 'climate responsibilities' when reviewing job descriptions. The DoBP agreed to look into this.

Action	Owner	Due Date
DoPP to review the Op Plan for Q4 reporting	DoPP	By 24 July 2023

10. Strategy Development Process

- 10.1 The CEO spoke to the paper presented and following a free and frank discussion on the options presented, it was agreed the most sensible option was to continue the current strategy for one year in part.
- 10.2 The Chair explained this will allow SMT to have initial discussion with the new Chair, when appointed, and also have a full discussion by Board. It will also allow the SMT to finish off the 2020-24 strategy and themes in June 2024, thus concluding their reporting on what was/was not achieved. This will allow SMT, at the same time, to take forward some high-level principles for developing an Op Plan that will reflect a unique period of change and uncertainty. Board agreed with this approach. The CEO confirmed they will commence this process as part of the July Board or Board Development Session.

Action	Owner	Due Date
July Board or Board Development Session to commence the Strategy Development process.	SMT	By 24 July 2023

11. Finance Management Report for Q3

- 11.1 The DoBP spoke to the papers presented and reported on the FMR spend to end March 2023.
- 11.2 The DoBP advised due to the current financial climate they were receiving a higher rate of interest on the savings account. This has resulted in interest earned to date of £30k.
- 11.3 Members noted the appeal costs have increased and the DoBP confirmed these were in line with increased number of appeals received and \$17 costs.
- 11.4 The DoBP also reported we are expecting to be able to release the bad debt provision of £68k for W W & J McClure, as the FinO has been in discussions with RSA and has had confirmation that RSDA will pay the outstanding levies. It is anticipated this will be paid late April/early May. Members sought clarification on the timeframe that RSA will maintain responsibility for ongoing/new W W & J McClure cases. The DoBP anticipated RSA will continue to be liable for these claims at present. Members noted this firm made serious errors and sought assurance that under the new Reform Bill, it would give the SLCC the opportunity to raise/deal with these types of instances. The CEO confirmed it was anticipated this would be the case, and it would also allow the LSS to intervene earlier in such instances.
- 11.5 The Chair sought clarification on the current property project overspend costs. The DoBP explained this was for some preparatory works which were necessary to start the project before yearend.
- 11.6 The Chair requested the DoBP include the date of when a firm was added to the Bad Debt Provision table. The DoBP agreed.

Action	Owner	Due Date
DoBP to adjust the Bad Debt Provision table for future reporting.	DoBP	By 24 July 2023

- 11.7 Members thanked the DoBP for their update to the paper presented.

12. Customer Feedback for Q3

- 12.1 The DoBP spoke to the paper presented and advised the data had been presented differently, as they were now utilising the PowerBi layout. It was hope this was more user friendly and informative for Board.
- 12.2 The DoBP reported there had been a better response rate since last quarter. With 224 cases being eligible for a feedback survey. From this, 26 responses were received from complainers and 16 received from practitioners. Resulting in a 19% response rate for Q3, this was 1% up on 2021/22 average response rate.
- 12.3 Members noted Service Delivery Complaints (SDCs) were down YoY, with 23 being received to date. The DoBP reminded Board that SET would be conducting a review of the SDCs process as part of the sprint project. The DoBP also advised there had been 21 compliments logged to end of Q3.
- 12.4 Members discussed the new presentation layout and following discussion it was agreed the DoBP would review the reports and ensure data labels are updated for Q4 reporting.

Action	Owner	Due Date
DoBP to adjust the PowerBi presentation tables for future reporting.	DoBP	By 24 July 2023

13. Note from the Remuneration Committee of 4 April 2023

- 13.1 Paper was noted as read.

14. Update from the Audit Committee of 17 April 2023

- 14.1 Paper was noted as read.

15. Minute from Consumer Panel of 29 November 2022

15.1 Members noted the paper presented.

16. Chief Executive's Report

16.1 Members noted the paper presented.

17. Vice/Interim Chairs Report

17.1 The Chair advised there had only one formal meeting with the SGvt Public Appointments Team, to carryout the sifting of applications received for the Board Chair recruitment process.

18. AOB

18.1 none.

19. Date of Next Meetings

19.1 Members noted the date of the next meeting was a Board Conference Call on **Monday 12 June at 10am** to discuss Yearend figures. It was agreed this meeting time would be extended to ensure there was time to discuss emerging issues around Reform.

Action	Owner	Due Date
Secretariat to confirm new timings to Board.	Secretariat	By 28 April 2023

19.2 The next full Board Meeting and Development Session will take place in person, in the Boardroom on **Monday 24 July 2023**, with lunch being provided.

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

20. Review of the Meeting

20.1 With no other business the meeting concluded.

3.45pm Board Meeting ends