

**MINUTE OF A MEETING OF THE MEMBERS OF THE SCOTTISH LEGAL COMPLAINTS  
COMMISSION: 10AM TUESDAY 22<sup>nd</sup> MARCH 2022  
VIA: ZOOM**

**PRESENT:**

**LAY:**

Jim Martin (Chair)  
June Andrews  
Jean Grier  
Niki Maclean  
Morag Sheppard

**LAWYER:**

**Apologies:**

John Stevenson and Richard McMeeken

**In attendance:**

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

██████████ (Secretariat – minutes)  
Vicky Crichton (DoPP)

**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  
BCP – Business Continuity Plan

**1. Welcome and Apologies**

- 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 noted apologies from John Stevenson and Richard McMeeken for today's meeting.
- 1.3 The Chair and CEO confirmed that the meeting could still proceed as it would be quorate despite apologies being received.
- 1.4 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. Declaration of Interests**

- 2.1 The Chair noted, in the absence of a Legal Member, there were no standard declarations of interests declared that would relate to any budgetary or reform discussions.

**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 Chair advised, the closing date was Friday 17 March 2022, with eighteen applications received. The sifting process would now commence with Interviews taking place week commencing Monday 4 April 2022. The CEO confirmed the Sponsor Team agreed with the Chair to commence the recruitment process for his replacement, as Chair and that of Lay Member, M Sheppard. The Chair

- hoped their replacements would be in place for the October Board Meeting to ensure a smooth handover before their demitted date of 31 December 2022.
- 3.3 **Joint work with LSS on Interim Improvements to the Complaints System** – Members sought clarification regarding the timescales. The DoPP and CEO explained the reasons for this. In particular, how to allow hybrid issues of complaint, the intricacies of the Act and the SGvt/Parliamentary timetables. Members enquired if separate legal advice had been sought on the draft amendments. The CEO confirmed it had not but advised SGvt have a legal team advising on the parliamentary drafting.
- 3.4 **ABS** – Members noted applicable changes to the SoD would be discussed later in the meeting. The DoPP confirmed all appropriate steps were now in place ready to receive the first enquiry/handling complaint form. Though it was anticipated that it might be some time before firms are licenced. The DoPP advised they have chased the LSS for a response to our request of 21 December 2021, for the details of how they intend to operate the scheme. To date there is still no response from the LSS to this request.
- 3.5 **Communication and Stakeholder Engagement** – Members noted the update on the recent roundtable events, which identified key issues which will be included in future learning for the Oversight Team. Members sought clarification on whether the profession noticed their client expectations had changed because of the pandemic. The DoPP advised this was not identified, but one theme was communication and how they communicated with their clients because of the pandemic. For example, they now use instant messages, messenger/texts as clients now expect an instant response but more about how firms manage this. Following discussion, Members agreed the Oversight Team would continue to develop guidance and advice as part of our core function for the profession. Members suggested a survey issued directly to the profession might be an option of reaching a wider audience. The CEO and DoPP explained the difficulties of accessing the data from the profession to run more similar sessions. Members noted attendees to both events were from a good geographical split across Scotland, with discussions being led by the attendees.
- 3.6 **Oversight** – The DoPP advised they have again written to the LSS, as there has still been no response from them on our report on the Master Policy (MP), which was published on 17 November 2021. The DoPP is still waiting on a formal response from the LSS Insurance Committee to our request for an update on securing payments from MP on the remaining cases that have been discussed. Members noted this request was made via the broker in August 2021. Members sought assurance that every avenue was being explored with regards to this issue. The DoPP confirmed they were. The Chair enquired if any handling complaints had been received on cases being investigated by the FoA. The DoPP confirmed the same statutory powers applied to both the LSS and FoA and to date no handling complaints had been received relating to a FoA case.
- 3.7 **Cyber Update** – The DoBP advised that it has now been identified that the SEPA attack was a result of human error. All organisations were now on heightened security alert for cyberattacks. Server patching will take place as planned later this week. The DoBP confirmed they have established a contract with a Cyber Response Specialist and SGvt are continuing to hold regular briefings.
- 3.8 **Digital and AI** – The CEO advised they were still exploring a summer AI Intern to review the data science project with SGvt and DataLab.
- 3.9 **S17 Work Update** – The CEO updated Members on the current situation on S17 complaints. Members noted the LSS would be raising a complaint on the individual Solicitor. The DoR is looking for the LSS to refocus on this area, along with their long journey times, whilst there has been some progress in this area, it is moving forward slowly.
- 3.10 The DoR advised legal advice was sought on third party files, and it might mean another application is made to the court if the firm do not provide the files. In this case, the firm are stating legal privilege as the reason for not providing the files and have stated they are acting on the advice of the LSS. The firm have said the LSS advised the firm they do not need to provide their file(s) to the SLCC. Members sought clarification on whether the solicitor/firm have provided evidence on the advice given by the LSS. The DoR confirmed

they had not, as this advice was provided verbally over the telephone. Members sought assurance that this issue had been raised directly with the LSS. The DoR confirmed it had.

- 3.11 Members sought clarification on how costs were recovered for the pursuance of S17 files with the courts etc. The CEO advised all costs are requested from court, as these costs are often challenged, they are not all recovered. Members noted the costs to proceed the current case via contempt of court has cost approx. £17,000 and this does not include any costs associated with SLCC management team time etc.
- 3.12 **Members Code of Conduct** – The CEO provided Members with an update on the action from the last Board meeting. The CEO confirmed the wording in the draft Model Code of Conduct has been accepted by other public bodies, and if Members specifically wished for their two points (3.2 and 3.3) of concern to be raised further, then Members would need to request SMT to submit a formal application to SGvt Sponsor Team to revise the wording. It was noted that even though a formal application could be made to SGvt Sponsor Team, it is not to be said that it would be amended.
- 3.13 Following a free and frank discussion it was agreed that if Members agreed to adopt the wording of the standard draft Model Code of Conduct, additional internal guidance would be drafted by SMT to support this document. Member, M Sheppard formally recorded her concerns, regarding the decision-making role.
- 3.14 The Chair confirmed Members agreed to approve the draft Model Code of Conduct, along with additional guidance being drafted by SMT to support Members in their roles.

Action	Owner	Due Date
SMT to draft guidance to accompany the draft Model Code of Conduct.	SMT	By 17 May 2022
CEO to confirm Board approval of draft Model Code of Conduct with the Standards Commission for Scotland.	CEO	By 1 July 2022

- 3.15 **Guidance on Complaint Timescales** - The DoR advised Members the FAQ section on the website have been updated to include the new timescales for each stage of the process. Showing a reduction in the total time of a complaint from enquiry stage through to determination stage reducing from 11months to 9.5months.
- 3.16 **Property Project Update** – The CEO confirmed the appointment of a property surveyor to assist with this project. Members noted the agents appointed were EYCO (formerly Eric Young & Co), with some property survey work being subcontracted to Reid Mitchell. Initial meetings will take place in the next 4-6weeks. Members agreed this item be included in the Key Issues paper until the project is complete.
- 3.17 The Chair thanked SMT for their updates to the paper presented.

#### 4. **Draft Budget and Operating Plan Consultation document for 2022/23**

- 4.1 The Chair advised that this paper had been discussed in detail by Members and SMT at the Board Development Session.
- 4.2 The DoPP advised they have just this morning received a copy of the LSS's press release in response to the draft budget consultation. The CEO agreed a copy would be circulated to Board.
- 4.3 Board noted responses had been received from:
- An anonymous solicitor [NB this respondent has requested confidentiality]
  - The Competition and Markets Authority
  - The Law Society of Scotland
  - The SLCC Consumer Panel
- 4.4 The Board discussed each paper in turn, noting the summaries and issues highlighted in the paper presented.
- 4.5 The Chair asked if the Faculty or Association of Commercial Attorneys had submitted any responses this year. The DoPP confirmed they had not.
- 4.6 The Board formally confirmed and approved, the draft Budget and Operating Plan and noted the following would apply:

- General Levy would be set at £444  
 Complaint Levy would be set at £5,000  
 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
- 4.5 The Board confirmed their approval of the listed suggested discounts from the General Levy for different practitioner groups.
- 4.6 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.
- 4.7 The CEO confirmed all responses received to the Budget consultation would be published in line with the consultation process and that the Budget would be laid in Scottish Parliament by the end of April.
- 4.8 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.
- 4.9 Members enquired if a response would be sent directly to the individual solicitor. The CEO confirmed they would write explaining the position in detail. The DoPP advised they would also take forward the comments raised on apportionment with the LSS.

Action	Owner	Due Date
DoPP to circulate a copy of the LSS press release to Board for information.	DoPP	22 March 2022
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 2022

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

## 5. Management Information to 28 February 2022

- 5.1 The DoR spoke to the paper presented and responded to Members' points made in advance of the meeting. Completion dates were continually monitored, as are the RAG for the oldest cases in the system. IMT review any case which is sitting at one stage over a month, and it was noted some cases with the LSS go back over 10years. In particular, there are two linked oldest cases, where the parties have added additional issues.
- 5.2 The DoR has raised these cases with the LSS and whilst they have admitted they have a backlog; they did not intimate/disclose their timescales. It was noted these cases are HCF and they do not impact on our statistics for JT etc. they will, however, still require the service elements to be investigated when the LSS conclude their conduct investigation. The DoR advised simultaneous investigations can only be conducted on cases where there are digital files available. Unfortunately, this does not apply to historical HCF cases like these.
- 5.3 The DoPP confirmed from an oversight function, these points are being raised with the LSS. The LSS have acknowledged that whilst their timescales are too long, they are not advising why this is the case. They are not looking at individual cases, they are reviewing why their processes are taking too long and how do they manage these cases to keep them flowing through the system. The Chair enquired if the LSS have intimated their backlog timescales. The DoPP advised they had not, and it was not clear from their timescales how long their backlogs are, but according to the LSS website investigations were supposed to take approximately 12months.
- 5.4 Members sought clarification on the accountability of the LSS. The CEO explained they were accountable to their own members of their profession. Effectively it is their own members who can raise issues regarding their timescales, as well as individual parties. The DoPP advised there was now an increase in Solicitors making Handling Complaints about the length of time the LSS are taking on investigating their cases. In some cases there might be an MSP/MP who enquires on behalf of a constituent.
- 5.5 Members sought clarification on our current timescales. The DoR reiterated these have been reduced, with a case sitting approximately 4wks at Investigation stage before being

allocated to a CI. The DoR advised they had commenced the recruitment process for an additional CIM and CI, and they had restarted using Reporters. Members suggested offering CIs overtime. However, it was not regarded as conducive to offer overtime as management would still be required to provide support to this additional resource and IMT feel it would be more beneficial to use Reporters for now.

- 5.6 The DoR advised IMT have checked in with all CIs to ensure that they are still comfortable working within each stage of the process, and those that wished moved have been. Members enquired whether SMT were concerned about our current backlog at Investigation stage. The DoR explained IMT discuss workflow planning at their weekly meetings, and whilst there were currently two staff off on long-term sick, it was anticipated that with the additional use of Reporters, the backlog should not increase.
- 5.7 The DoR confirmed SMT had budgeted for the use of Reporters.
- 5.8 The Chair requested that SMT provide an update on this at future Board Meetings. The DoBP agreed this would also be included in the FMR paper.

*11.18am comfort break, meeting resumed at 11.28am*

## **6. Agile Review**

- 6.1 The CEO spoke to the paper presented and sought Boards views on the agile review of sprints. Members suggested that the section G: Our Outcomes, should be amended to reflect the current incoming numbers. The CEO explained the note regarding incoming numbers being adjusted due to Covid-19 and lockdown.
- 6.2 Members sought clarification which eight staff were trained in Lean-six Sigma. The CEO reported a cross section of SMT and IMT staff have been trained in the techniques of Lean-six Sigma.
- 6.3 The Chair enquired if there had been any negative feedback on these sprints. The CEO confirmed staff buy-in has been high. The DoR reiterated as there has always been a change culture in the organisation, including the reviewing processes and procedures. This allowed some colleagues to partake in personal development, resulting in little or no pushback. The DoBP noted feedback was more about how staff found out about the opportunity to be involved in sprints, rather than the sprints themselves.
- 6.4 The Chair enquired as to how this would be measured, would it be by the number of FTEs and hours. The CEO confirmed this data was not captured, as the sprints were operated within normal targets and day roles, therefore making it difficult to conduct a cost analysis on the project. The work was also often not 'discreet' – creating a new template would be measurable (but a minimal part of a sprint). Testing new template on live work is conflated with the normal work that would be done on that case and is hard to separate in a meaningful way.
- 6.5 Board noted the next steps proposed by SMT to continue to review these sprints and recorded their thanks again to all staff in achieving the award because of this agile sprint.

## **7. Finance Report to 28 February 2022**

- 7.1 The DoBP spoke to the papers presented and reported Income was £75,869 ahead of Budget, with Expenditure showing a saving of £243,416.
- 7.2 The DoBP reported that of the Complaint Levy income is currently £51,000 ahead of the phased budget, this is in line with the forecasted increase to this income. Members noted of the Complaint Levy invoices raised to end of February, £15,000 will be moved to Bad Debt as they have been charged to a company in Administration. The DoBP advised there will be further Complaint Levies transferred to Bad Debt as complaints against this firm move through the system.
- 7.3 The DoBP reported secondment income was £28,671 ahead of budget, with this secondment continuing to end of June. Staff salary costs were £139,806 under budget till end of February due to vacancies. Based on current resource we are now actively recruiting to fill some of these vacancies. Further savings of £6,635 have been made in reporters. In order to keep cases moving through the system, we have re-established the use of the reporter panel, meaning spend will start to come through in future months. The

DoBP reminded Board these costs also take account of the NI increase that will be payable from April 2022.

- 7.4 Members' expenses were currently £32,169 under budget. These are in line with last year's spend, and as we are currently two legal members down, forecasting a £40,000 saving.
- 7.5 The DoBP reported staff training was overspent by £14,097. This was due to the phasing of budget spend to provide additional training for staff to support hybrid working. The DoBP advised they were forecasting a yearend overspend of £8,500.
- 7.6 Legal costs were £14,992 over budget to end of February. This was due to incurring further costs for the S17 work that has been ongoing.
- 7.7 The DoBP confirmed the 'bad debt table' would be amended to differentiate between those firms still trading and those in Administration and apologised this had not been actioned for this meeting.

Action	Owner	Due Date
DoBP/FinO to amend Bad Debt table to differentiate between firms still trading and those in administration for future reporting.	DoBP & FinO	By 17 May 2022

- 7.8 Members noted the other figures presented by the DoBP.

## 8. Risk Register Summary

- 8.1 The DoBP spoke to the paper presented and gave an update on current Risks. Advising Risk 4 – Major IT failure or security incident. Due to the current conflict between Russia and Ukraine, SGvt are reviewing the situation daily and reviewing any risk that comes from any cyberattacks. The DoBP also advised they have now signed an agreement with the cyber incident response partner, Sapphire. SMT will continue to update both the Chair and Chair of Audit of any significant developments. Following discussion, Members agreed this risk level should also increase.
- 8.2 Members noted Risk 12 – Transition to new Board composition and chair was, along with Risks 2 and 9 remaining high, as they were all linked. The Chair advised interviews were scheduled for 5 and 6 April, with any new members appointed, hopefully commencing 7 June. This was incumbent on all those involved in the process keeping to the timescales.
- 8.3 The AC Chair confirmed Risk 4's level be increased in the Risk Register.
- 8.4 Members noted the paper presented.

## 9. Update from the Remuneration Committee

- 9.1 The DoBP gave an overview of the RC Meeting from 3 February. In particular, RC were updated on the PCS pay claim discussions. PCS advised late December 2021, as inflation had surpassed 5%, they were looking for the SLCC to use the pay bill flexibilities within the SGvt Pay Policy for 2021-22. PCS intimated they wished to revisit the pay pot modelling to use these flexibilities to address this with a further percentage rise. SMT clarified points with PCS at their meeting on 13 January 2022. During this meeting, PCS advised SGvt were offering their staff a further 0.9% using pay bill flexibilities and they were seeking for SLCC to do the same.
- 9.2 The DoBP advised RC the SLCC pay bill flexibilities modelling pot was £14,711. This is based on the SGvt pay bill flexibilities to be spread across the current FTE. This equates to an additional 0.65% pay increase for all staff, which on the current modelling to provide all staff with a 0.65% increase would cost £14,693, within the modelling pot of £14,711.
- 9.3 The RC Chair confirmed this was discussed in detail by SMT and RC. Following which, RC agreed that the DoBP and HRA would contact similar organisations to ascertain if they were also exercising their rights to use the SGvt Pay Policy 2021-22 pay bill flexibilities, to award their staff extra due to inflation surpassing 5%.
- 9.4 The DoBP confirmed they had contacted four other NDPBs. They are all awarding an additional 0.9%, which is being backdated to April 2021.
- 9.5 Members sought clarification on whether the SGvt payment was a one-off payment. The RC Chair confirmed it was a consolidated payment and not one-off. The DoBP advised that another four public sector bodies have paid above the SGvt 0.9%. Members

discussed the implications of awarding this extra payment on the proposed draft budget. The RC Chair advised if the SLCC was not bound by the SGvt Pay Policy they would need to be looking at benchmarks of our own, and the fact that we have SGvt Pay Policy means that we are now able to use our discretion to use the extra pay bill flexibilities and pay the additional 0.65%. The Chair reiterated this was one of the reasons why RC was re-established, to consider points such as these.

- 9.6 The RC Chair confirmed RC, as we were in line with SGvt and other NDPBs, they were content to award the additional 0.65% which is the recommendation from SMT. Members noted if the additional 0.65% was not awarded, those staff whose salary was £41,000 and above, will be detrimentally affected by the increases in NI, along with the cost of living. Members noted this also applied to SGvt and other NDPBs. The RC Chair reiterated it was a balance of SLCC needing to catch up with other pay scales and working within the SGvt Pay Policy pay bill flexibilities.
- 9.7 Board endorsed the RC recommendation. The DoBP confirmed this would be processed in the March salary.

## 10. Engagement with Legal Profession

- 10.1 The DoPP spoke to the paper presented and gave an update on projects and engagement with the legal profession to date.
- 10.2 Members noted that the Oversight team were working with the LSS on their new partner course and that there has been good engagement to date.
- 10.3 The DoPP advised that they also have increased the use of social media formats, which is also showing positive engagement from the profession.
- 10.4 Members agreed that the DoPP to include the KPI target information in the next update report.
- 10.5 Members wondered if there was any feasibility in sharing our Agile Sprint support with the LSS. Following discussion, SMT agreed to consider the possibility of sharing the Agile Sprint achievements with the LSS to share learnings in reducing timescales in processes.

Action	Owner	Due Date
DoPP to include KPI target information in next update report to Board.	DoPP	By Qtr4
SMT to consider sharing Agile Sprint achievement/learnings with LSS.	SMT	By 17 May 2022

## 11. Review of Complaint Levy Policy

- 11.1 The DoPP spoke to the paper presented and it was agreed, as Member, R McMeeken was unable to attend today, this Agenda item be brought back to the May Board Meeting for discussion.

Action	Owner	Due Date
Review of Complaint Levy Policy to be carried over to May Board for full discussion.	SMT/Secretariat	By 6 May 2022

## 12. Updated Rules

- 12.1 The DoPP spoke to the paper presented and explained the draft Rules which were consulted on. Members noted minor changes were also incorporated to include: the use of plain English, gender neutral language throughout and include explanations to terminology used within the document.
- 12.2 Members sought clarification on the timescale for implementation on the revised draft Rules. The DoPP confirmed that the final 'clean' version of the Rules would be signed by the Chair, published on our website, and communicated to the profession, once they are formally approved by Board. The DoPP advised articles would also be included in the Scottish Legal News etc.
- 12.3 Members sought clarification on how firms provided their files electronically to the SLCC and wondered if there were any additional cybersecurity issues that need considered. The

DoBP advised there were strict rules on how firms send files to us digitally, they are sent securely by Egress and not sent as attachments in email, thus reducing risks.

- 12.4 The Board formally approved the revised draft Rules for implementation and commencement at the start of the new financial year on 1 July 2022.

### **13. Consumer Panel Update**

- 13.1 Members noted the paper presented.

### **14. Scheme of Delegation**

- 14.1 The CEO spoke to the paper presented and gave a brief overview of the minor changes incorporated into the document. These related to ensuring there was clear delegation for new complaints coming from the Legal Services (Scotland) Act 2010 Implementation and updates to the delegations around the Master Policy and Client Protection Fund.

- 14.2 Board approved both changes.

### **15. Board Actions Register**

- 15.1 The DoBP provided an update on Actions 439 and 441.

15.1.1 Action 439 – VPN was being rolled out to all staff w/c 4<sup>th</sup> April, when they are being asked to attend the office for their laptops to be updated.

15.1.2 Action 441 – penetration testing will be conducted annually.

- 15.2 Members noted the remaining ongoing Actions and agreed all other completed actions be removed from the register.

### **16. Minutes of Previous Meeting from 25 January 2022**

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

### **17. Chair's Report**

- 17.1 The Chair advised both he and the CEO had a good positive meeting with the Minister, Ms A Regan.

- 17.2 The Chair also confirmed that interviews for the two new Legal Members was taking place first week in April.

### **18. Date of Next Meetings**

- 18.1 Members noted the dates of the next meetings as:

- Board Development Session will take place at 2pm on Monday 16 May 2022.
- Board Meeting commence at 10am on Tuesday 17 May 2022.

- 18.2 Chair advised these meetings will continue to take place remotely due to current SGvt guidelines. However, should the guidance change Members will be advised accordingly.

### **19 AOCB**

- 19.1 none.

### **20 Chief Executive's Report**

- 20.1 The CEO gave a brief overview of meetings to date. Members were intrigued by the Sky documentary filming day. The CEO explained this was part of a CAS reporting film to be used in the regulatory community, with short clips being made for social media promotion.

- 20.2 The CEO also gave a brief summary of the meeting with the Justice spokesperson from the Liberal Democrats, Liam McArthur, which related to a constituent's question.

- 20.3 The Board noted the paper presented.

### **21 Review of the Meeting**

- 21.1 With no other business the meeting concluded.

*12.32pm Board Meeting ends*