

MINUTE OF A MEETING OF THE MEMBERS OF THE SCOTTISH LEGAL COMPLAINTS COMMISSION: 2pm on MONDAY 23 JANUARY 2023 in the SLCC Boardroom

PRESENT:

LAY:

Niki Maclean, Vice & Interim Chair
June Andrews
Anne Gibson
Jean Grier
John Stevenson

LAWYER:

Lynne Collingham
Dale Hughes (*online from 2.40pm*)
Richard McMeeken

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 this her first Board meeting as Vice and Interim Chair.
- 1.2 The Chair confirmed that Board held a private session at the end of the morning session and agreed a summary of the priorities from the Reform agenda of the two main topics should be developed by SMT, so that both SMT and Board have clear priorities of actions. It was agreed these would be developed by SMT, in preparation for the upcoming meeting with the Minister next month. Following the Ministerial meeting, Members noted there might be a requirement for an additional Board Conference Call, the date and time will be confirmed by the Chair.
- 1.3 The Chair confirmed Board would also be ratifying their formal discussions on budget assumptions and priorities, as they will be discussed later in 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 consultation process/response by the SLCC.

3. Minutes and Matters Arising from Meeting of 13 December 2022

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

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 The Chair requested an update on Action 462. The DoBP advised this was underway and due to how the budget apportionments and actual payments are made on Sage, it was taking longer than anticipated, however a date would be added.
- 4.3 Action 482 would remain outstanding, until the new Board Chair is appointed by SGvt.

4.4 Action 495 the CEO confirmed they have instructed lawyers on drafting of the appropriate documentation. The CEO will liaise with the Chair when this is due to be served.

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 the current timetable regarding the recruitment of a new Chair. The Chair advised there had been a good initial meeting with SGvt, with new ideas shared on how to raise profile of the advert on social media, etc. when the Public Appointments Team launch it.

5.3 **Debrief on IT outage on Monday 19 December 2022** – Members noted the full analysis conducted by SMT following the power outage experienced in the building on Sunday 18 December. The CEO reported the same thing happened again this morning, however, due to our recent experience we were able to get back up and running a lot quicker. NVT technicians also attended site within 3hrs of issue being reported. The DoBP explained there is a switch that was used for the telephone system, that appears to be faulty, and now that the telephone calls have been moved over to being fully received through Teams, we were able to bypass this switch and connect directly into the main server. It was acknowledged that once IT is moved over to a cloud-based system will reduce these instances. Members agreed an action should be placed on the action register so that Board is updated when the ‘lessons learnt’ listed in the paper had been implemented. .

5.4 **ABS** – The CEO advised the LSS have indicated they will be launching this in the spring, and confirmed work continues in the background in anticipation of the launch.

5.5 **Oversight** – The DoPP confirmed they have now shared with the LSS, the second and final part of the analysis of conduct complaint timescales for comment. The DoPP reported they will now produce a public facing report, combing both sets of analysis, along with any recommendations, which can be made under S36. The Chair sought clarification on timescale of production of the report. The DoPP anticipated this would be completed by end of Q3, as they were still waiting on the LSS response to the final report.

Action	Owner	Due Date
The DoBP to provide an update to Board when the lessons learnt from the IT incident on 19 Dec had been implemented.	DoBP	By end Q3
The DoPP to share a copy of the finalised public facing report on the analysis (cases closed over the past two years) of the LSS conduct complaint handling times with Board.	DoPP	By end Q3

5.6 **Cyber** – The DoBP advised they had hoped to rollout the Board Multi Factor Authentication today whilst Members were in the office, unfortunately this has been delayed by NVT. Members noted they might need to contact NVT direct to arrange this. It was agreed the DoBP will advise the next steps. The DoBP also drew Members to the recent Royal Mail cyber incident that was reported in the press.

5.7 **Digital and AI** – The Chair sought clarification on how AI could be used in our organisation. The CEO gave an overview of how AI was being used by another similar regulator. Members noted the challenges of our dataset, in that, it is not suitable for analysis by large data searches. The CEO advised some organisations use AI to partially ‘speak’ to their complaint forms, in doing so key words/phrases populate and partially complete forms, and others are using AI for triaging complaints. Following discussion, it was agreed the CEO will continue to update Members on any progress in this area. The CEO proposed that AI might be a topic for a future Board Development Session. Members agreed.

Action	Owner	Due Date
The CEO to plan a Board Development Session on AI.	CEO	By end Q4

- 5.8 **S17 Work Update** – Members noted the work to date on revising the templates and the policy and procedures manuals. The CEO and DoR confirmed advice and training had been sought from one of our legal advisers, and this, along with written guidance on LPP and confidentiality, will be delivered to both staff and Board.
- 5.9 Members noted progress was being made by the LSS's on their proposed rule change, further information will be shared when available.

Action	Owner	Due Date
The DoR, to share the draft guidance and training for staff and Members on the definition of LPP when arranged.	DoR	By 20 March 2023

- 5.10 **Property Project Update** – The CEO advised two potentially suitable properties have been identified, which will be brought to Board for final approval. Staff have been advised. The main points from staff briefing was they would appreciate advance notice of the timescales involved on the move, and if there would be any staff car parking available nearby.
- 5.11 **Recordings Submitted as Evidence** – The CEO confirmed the Legal Chairs had met and carefully discussed and considered the legal issues of admissibility, the impact on parties, and the interests of other stakeholders on covert recordings being submitted with a complaint.

2.40pm Member, D Hughes joined online, who apologised for his delay, which was due to IT issues

- 5.14 Board had a free and frank discussion on the matter of admissibility of recordings made covertly and being submitted with a complaint. Following which, Board agreed to delegate the drafting of a policy wording to SMT, with this adding in some of the wider context provided in the cover note to Board, and emphasising relevance, reliability and transparency.

Action	Owner	Due Date
The CEO to draft a policy wording on the matter of admissibility of recordings submitted as evidence by complainers, and for this to be added to the policy manual at the next scheduled update.	CEO/DoR	By end February 2023

6. Draft Budget and Levy Consultation document for 2023/24

- 6.1 The Chair advised that Members were being asked to formally approve the final draft Budget presented, which would be issued for consultation by 31 January 2023.
- 6.2 The DoPP reminded Members the draft Operating Plan document would formally come back to the March Board for final approval.
- 6.3 Members noted there were a number of stylistic and typographical changes required. Following discussion, Members agreed these should be forwarded directly to the DoPP for inclusion.

Action	Owner	Due Date
Members to email DoPP direct with any suggested stylistic and typographical changes.	Members/DoPP	By end of day 24 January 2023

- 6.4 Members sought clarification on how paragraph 4.9 was measured and thought a table key of explanation was missing. It was agreed this would be added. Following discussion, the CEO also agreed to review the wording/information at paragraphs 4.10, 4.14, 4.25 and 6.17.
- 6.5 The Chair requested the CEO and SMT ensure all amendments were incorporated, and the document was proofread for consistency before issuing for publication and consultation.

Action	Owner	Due Date
CEO/SMT to review the draft Budget document, taking into consideration today's discussions, prior to issuing for consultation by 31 January 2023.	CEO/SMT	By 31 January 2023

- 6.6 Board formally approved, Section 9 of the draft Budget consultation document, which states:
 General Levy would be set at £484
 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
- 6.7 The Board formally approved the draft Budget contained within Appendix 1.
- 6.8 The Board also reiterated their approval of the listed suggested discounts from the General Levy for different practitioner groups.
- 6.9 The Chair confirmed Board agreed to delegate authority to SMT to update and finalise the draft Budget for it to be published by the timescales set.
- 6.10 The CEO confirmed SMT would ensure all timescales were met and that the documents would be circulated to all stakeholders for consultation. The CEO agreed a final copy would be sent to Members by email, and that the final document would be issued for consultation by 31 January 2023, as required by the 2007 Act.
- 6.11 Members noted the consultation period concluded at 12noon on 15 March 2023, with a full update provided to the March Meeting. With responses received being published by end of March 2023, and the final Budget must be laid before Scottish Parliament in April 2023.
- 6.12 Members thanked the CEO and SMT for their explanation to the papers presented.

7. Management Information for Q2

- 7.1 The DoR spoke to the paper presented. Members noted the current waiting times, with extra resource now moved to eligibility. The DoR confirmed all new CIs were now in place and are in their induction training, and two staff who had been off long term, have both returned on phased returns.
- 7.2 Members requested future reporting to be presented in a quarterly format. The DoR agreed.

Action	Owner	Due Date
DoR to present future Management Information on a quarterly format.	DoR	By 24 April 2023

3.26pm comfort break, meeting resumed at 3.34pm

8. Appeals Update for Q2

- 8.1 The DoR spoke to the paper presented. Members sought clarification on a determination decision appeal, particularly about points raised by Lord Doherty. It was agreed the DoR would seek further explanation from the CIM lead on appeals and provide any additional information to Board.

Action	Owner	Due Date
DoR to seek further clarification from CIM lead on appeals and provide any additional information to Board.	DoR	By 20 March 2023

- 8.2 Members sought clarification on the costs quoted for each appeal. The DoBP reminded Members these were indicative costs for Counsel fee quotes and instructions of when an appeal is received, and the final costs can often be into the next financial year. It is the final costs that are recorded in the FMR paper.

9. Strategic Risk Register

- 9.1 The DoBP spoke to the paper presented and advised Members this had been discussed fully at the recent AC meeting. The DoBP reported risks 2 and 8 have been reduced, risks 5 and 9 have increased and risks 1, 3 and 12 have been updated.
- 9.2 Members were content with the information provided and noted the paper as read.

10. Op Plan Update for Q2

- 10.1 The DoPP spoke to the paper presented and sought clarification on whether objective 2 be re-graded, as this was part of the Delivering Clarity project which has been delayed. The delay was aimed at achieving greater value from the audit, once the new templates had worked fully through the system (so that we could audit full completed cases, rather than just the first few stages). Members noted this project audit would now be conducted in 2023/24. The Chair agreed it was justifiable to carry this project forward into the new Op Plan.
- 10.2 Members noted the templates will need updated when the office move takes place.

11. Complaint Levy Review

- 11.1 The DoPP spoke to the paper presented, drawing Members' attention to the proposed track changes within the policy. These changes were drafted following Board discussion at the October Meeting.
- 11.2 Members had a free and frank discussion on levy tariffs, in particular, around S17 breaches to comply. Following discussion, it was agreed the CEO, DoPP and Chair would meet to discuss S17 cost implications on a cost per case basis and budget consultations.
- 11.3 Members found the decision tree flowchart clear and self-explanatory, which was helpful.
- 11.4 Board agreed with the revisions in the updated policy, subject to 'timely' being added at point (iii). The DoPP agreed with the change.

12. Finance Management Report for Q2

- 12.1 The DoBP spoke to the papers presented and reported on the FMR spend to end December 2022.
- 12.2 The DoBP advised they have now received the outstanding credit note £54k linked to the previous years' service charges, these were reported from November 2022. The DoBP will now adjust the forecast figures for the Budget consultation.

Action	Owner	Due Date
DoBP to adjust the forecast figures for the budget consultation.	DoBP	By end of day 24 January 2023

13. Customer Feedback for Q2

- 13.1 The DoBP spoke to the paper presented and highlighted two compliments had been received this quarter.
- 13.2 Members noted the low response rates, which was disappointing. The DoBP reported that SET would be taking this forward as a future project.
- 13.3 The Chair sought confirmation that there was a standard approach applied to any extensions given to timescales. The DoR confirmed there were and that the timescales were publicly available on the website.
- 13.4 The DoBP noted that reviewing the whole approach to customer feedback (aims, process, tools, reporting, feedback loops, showing action, etc). was to be reviewed under a project in the 2023-2024 Op Plan, and Board input on that would be sought.

14. Note from the Remuneration Committee of 12 January 2023

- 14.1 Paper was noted as read. The DoBP confirmed there was no additional information from SGvt Pay Policy.

15. Update from the Audit Committee of 16 January 2023

- 15.1 Paper was noted as read.

16. Minute from Consumer Panel of 6 September 2022

16.1 Members noted the paper presented.

17. Chief Executive's Report

17.1 Members noted the paper presented.

18. Vice/Interim Chairs Report

18.1 The Chair advised there had only one formal meeting with the SGvt Public Appointments Team, to set out the timetable for the Board Chair recruitment process.

19. AOB

19.1 **Rules** – The DoPP reported following the Rules Consultation, which had been previously discussed by Board at the July Meeting, they were now moving forward to the final stages of implementation of the revised Rules. Board formally agreed the new revised Rules would be implemented from 1 April 2023.

20. Date of Next Meetings

20.1 Members noted the date of the next meeting was a Board Conference Call on **Monday 20 March at 10am** to discuss Budget Consultation responses.

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

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

4.08pm the SMT left the meeting

21. Chief Executive's Six-Month Performance Review

21.1 The Chair confirmed that Members noted and agreed with demitted Chair's presented paper on the proposed 6-monthly Appraisal for the CEO. Board agreed.

22. Review of the Meeting

22.1 With no other business the meeting concluded.

16.12pm Board Meeting ends