

MINUTE OF A BOARD CONFERENCE CALL OF THE MEMBERS OF THE SCOTTISH LEGAL COMPLAINTS COMMISSION: 10am on Monday 16 December 2024 on MS Teams

PRESENT:

LAY:

Jane Malcolm, Chair
Anne Gibson
Jean Grier
Niki Maclean, Vice Chair
John Stevenson

LAWYER:

Lynne Collingham
Dale Hughes (*joined at 10.06am*)
Richard McMeeken

Apologies: none

In attendance:

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

Louise Burnett (DoBP)
Caroline Robertson (DoR) (*joined at 10.11am*)

Governance Consultant, Andrew Harvey, observing the meeting

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	SP – Scottish Parliament
SGvt – Scottish Government	MP – Master Policy

Private Member only session, after which the Meeting Chair invited SMT and Secretariat to join the meeting at 10.08am

1. Welcome and Apologies

1.1 The Chair welcomed everyone to the Conference Call and extended a warm welcome to Consultant, Andrew Harvey, who is conducting the Governance Project on behalf of the Board and the executive. The Chair confirmed they would be observing this and other relevant meetings as part of the project process.

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/responses 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 **Reform** – the DoPP advised there have been two tranches of amendments, with 523 amendments from SGvt, with no further amendments being shared till early/mid-January. The DoPP and CEO were reviewing these amendments. It was noted that the Lord President had submitted a written response to the Committee regarding the changes on the Appeal process. Members had a free and frank discussion on whether there were any specific points/concerns that should be taken into consideration at this point from these amendments. However, following this discussion, it was agreed they should await all responses before forming any specific opinions. It was agreed that the Operational Risk Register 2.7 mitigation should be refreshed under the circumstances. The DoPP agreed.

The Chair noted that she and the DoPP had recently met with the Minister and gave a brief synopsis of this meeting.

Action	Owner	Due Date
DoPP to review and update Op Risk Register for 2.7.	DoPP	ASAP

- 3.3 **ABS** – Members noted the updated provided.
- 3.4 **Communication and Stakeholder Engagement** – Members noted the update provided and enquired if there had been any feedback on the publication of our Annual Report, in particular, wondering if the recent ‘negative’ comments related to this. The DoPP explained there had been no feedback on the Annual Report and gave a brief overview of the recent comments which had been left on the social media channels.
- 3.5 **Oversight** – Members noted the update provided and enquired if there had been any further information from the LSS on any firms which are attempting to charge for complaints. The DoPP confirmed there was a Conduct Rule in relation to this point, explaining we have been asking the LSS to expand/explain this particular rule further with the profession. The new LSS guidance recently issued now clarifies this. The DoPP understand this is partly in response to our 2023 Terms of Business report, and the continued flagging of cases of this nature.
- 3.6 **Cyber Update** – Members noted the recently reported cyberattack related to a former External Auditor, Deloitte. The DoBP confirmed Deloitte have advised this related to a single source, with no risk or access to any SLCC data. Members sought further information on the plans for the forthcoming Cyber week due to take place during February 2025. The DoBP advised both herself and relevant staff will attend cyber events, with awareness sessions taking place for both staff and members.
- 3.7 **Digital and AI Update** – Members noted the update provided.
- 3.8 **S17 Work Update** – Members noted the current situation on S17 complaints. Members shared their recent experience of considering and determining the first few cases under the S17 sprint pilot. The DoR thanked Members for the feedback and confirmed this would be shared with SMT/IMT at the next S17 strategic meeting.
- 3.9 **Employment Tribunal and linked Appeal** – Members noted the update provided. The CEO advised they were now in the formal process of the ET, which is currently postponed. Members had a free and frank discussion on the ET process. The CEO confirmed an update would be provided in due course.
- 3.10 **Former Firm (W W & J McClure Ltd)** – Members noted this item would be discussed fully later.
- 3.11 **Governance** – the CEO advised this project was progressing well.
- 3.12 **Delegation issue within Appeals** – the CEO confirmed the CoS hearing took place on 12 December and provided Members with an overview of the hearing. The Chair sought clarification on approximate timescale of when we would receive the CoS decision. The CEO and DoPP advised these are usually received within 3 months of a hearing, so end January/beginning of February at the earliest it was anticipated. The CEO confirmed the decision will be shared with Board and they will convene relevant staff to discuss any implications on the SLCC processes as soon as the decision is received.

Action	Owner	Due Date
CEO/SMT to share CoS decision with Board as soon as received, and when appropriate convene a meeting with relevant staff to discuss the decision.	CEO/SMT	ASAP

- 3.13 **Complaint to ICO on SLCC Handling of a Subject Access Request (SAR)** – Members noted the update provided and the positive feedback received from the ICO.
- 3.14 **2024-25 Pay Offer** – the DoBP advised this has now been accepted by PCS, and confirmed, the 3% cost of living rise for all staff paid more than £29k, and £1,500 for those paid under £29k, would be paid, along with back pay in staff’s December salary. Members were pleased to note this had now concluded for staff.
- 3.15 **Feedback from LDU (Legal Defence Union)** – Members were pleased to note the positive feedback received from the LDU.

- 3.16 **LSS Annual Conference** – Members, N Maclean, J Grier, and J Steveson provided a verbal update to Board on their attendance at this conference, sharing their reflections of sessions they attended. They all agreed it was a good event and worthwhile attending.
- 3.17 **Appointment of new Board Members** – the Chair confirmed the interviewing panel’s recommendation has been put forward to the Minister, so we await the outcome of this decision, before any further information is shared.
- 3.18 The Chair thanked SMT for their input to the paper presented.

4. Draft Strategy, Op Plan and Budget 2025/26

- 4.1 The CEO reported Members were being asked to discuss the draft Strategy and draft Budget presented, along with the draft Operating Plan, reminding Board, they were requested to formally agree and approve both documents, or to give sufficient feedback to SMT, so a finalised strategy and budget could be brought back to the January Board for approval. This would be the last possible date to approve a Budget in line with the Act. However, the CEO reiterated, that if Members required further discussion, this could be done at the January Board, but there would be a very tight turnaround to issue the documents within the timescales for the consultation period. It was noted by the CEO, that Board can finalise by email or delegate authority to say the Chair and/or CEO on the draft Strategy and Op Plan, but all Budget decisions are non-delegable in the Act, so it must be clear that Board as a whole has formed a clear decision.
- 4.2 The CEO also reminded Members the draft Operating Plan would formally come back to the April Board for formal approval.
- 4.3 The Chair agreed the draft Budget could be finally presented to the January Board if Members felt further information or discussion was required.
- 4.4 The Chair suggested each document should be considered, discussed, and approved individually, with everyone agreeing to this proposal.
- 4.5 Interim Strategy for 2025-2027 – The Chair sought formal approval for the Interim Strategy for 2025-27, as discussed in detail in November. Board was in full agreement.
- 4.6 Draft Budget 2025/26 - The Chair thanked the DoBP for providing two different draft General Levy options for Board to consider. The Chair suggested Members consider these different options individually, and in particular, the rationale and impact these would have on the draft Budget and the profession as a whole.
- 4.7 The DoBP and CEO spoke to the options presented, and reminded Members that these figures were based on discussions at both the October Board and November Workshop.
- 4.8 The DoBP reiterated these figures were based on the usual fixed costs (rent, staffing etc.) but also accommodates any potential rises, for example, inflation, SGvt pay policy, legal fees. The DoBP explained NI and life assurance costs have recently increased and these have been taken into account.
- 4.9 The DoBP advised they have now also met with the LSS regarding the projected practitioner numbers for the General Levy, with these being noted in the paper presented.
- 4.10 Board had a free and frank discussion on each of the options presented, during which they considered these in detail. Following which, the Chair sought confirmation that Board approved the proposed draft Budget for 2025/26. Board was in full agreement with a General Levy being set at 4.5%.
- 4.11 Board formally agreed to consult on:

General Levy would be set at	£572
Complaint Levy would be set at	£7,000
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
Licensed Provider Complaint Levy would be set at	£7,000
- 4.12 The Chair noted key messages would also be included, and that these would be reviewed following Board’s final decisions on the other points being discussed today.
- 4.13 Draft Operating Plan 2025/26 – Members wondered if this included enough emphasis on equality and diversity and our approach on this area. The CEO agreed additional detail could be included. The CEO also reported they have now finished the first dip sampling

review on Reasonable Adjustments, with an update being brought to the January Board. Members also wondered if we had incorporated the United Nations Convention on Rights of a Child regarding their ability to access and make a complaint in their own right/name. The DoPP confirmed this was included within the main deliverables of the statutory complaints process (A8), with both these points being included in project work for the coming year. Members also enquired, as part of the oversight outreach work, as to whether the profession is concerned by wider additional business cost rises - for example, mandatory regulatory changes that they must implement, or the new NI rate - which will impact on all firms but especially on small firms. Members asked whether there has been any engagement with the LSS on these points, or are they being addressed already. The DoPP advised they do, and have raised these points, in particular with the LSS, as the primary regulator for the profession. Members noted there is a perception that the profession should not have to pay for any additional costs imposed on them by regulatory changes. The Chair suggests we acknowledge that all firms are subject to additional financial pressures, and specific costs associated to them. The Chair asked, that subject to the points raised above, the Board approved the proposed draft Op Plan. Board was in full agreement.

- 4.14 Consumer Duty – the DoPP reported on the small amendment in the document since discussions at the November workshop, advising this will evolve as matters progress with the Bill. The Chair asked for confirmation that the Board approved the proposed approach on Consumer Duty. Board was in full agreement.
- 4.15 Other Policy and Risk Considerations – the CEO reported on the small amendments, to reflect Board feedback, since discussions at the November workshop. The Chair asked the Board for approval for the for the proposed approach to the other Policy and Risk Considerations. Board was in full agreement.
- 4.16 Proposed Comms for the Consultation – the CEO and DoPP advised these were still in draft as matters progressed. Members suggested this should also include reference to McClure. SMT agreed this could be added. The Chair asked that Board approve the proposed approach on Comms. Board was in full agreement.
- 4.17 The Chair thanked both Board and SMT for their helpful input on these discussions today.
- 4.18 The Chair confirmed Board formally approved and agreed:
 - 4.18.1 Interim Strategy for 2025-2027.
 - 4.18.2 Draft Budget 2025/26.
 - 4.18.3 Draft Operating Plan 2025/26
 - 4.18.4 Consumer Duty
 - 4.18.5 Other Policy and Risk Considerations
 - 4.18.6 Draft Proposed Comms Lines for Consultation.
- 4.19 The CEO noted that further work on drafting would take place, and that the consultation would be launched in early January, allowing a focus on Reform and the Stage 2 amendments process.

5. LESSONS LEARNT – McClure

- 5.1 Members noted the contents of the confidential paper presented. The CEO gave a brief background and overview summary of the lessons learnt work that the SLCC has undertaken on this matter and asked that Board note the paper presented. The CEO explained the Executive were seeking Board's views on how they consolidate the lessons learned into a process and how this would be shared with the profession. The CEO explained the reasons for this approach.
- 5.2 Thanks were extended by the Chair, on behalf of the Board, for the excellent work of SMT and staff on this matter, and for the drafting of the paper presented. Members agree this paper gives Board a high-level of assurance of a valued approach in what was very difficult circumstances for all the concerned parties.
- 5.3 Board noted that as part of the future work with stakeholders, the Executive has now added 'any emerging issues/risks' to stakeholder meeting agendas.
- 5.4 Members sought further clarification on the role of Master Policy (MP). The DoPP gave an overview of the MP process, explaining that MP appointed their own legal

representatives, who effectively started to assess the complaints rather than deal with the claims to MP. It was acknowledged there had been a great deal of discussion on these points with MP, which thankfully has now resulted in complainers receiving compensation due. Members thanked the DoPP for this explanation.

- 5.5 Members had a free and frank discussion on the costs associated to the SLCC in dealing with the extra volume of these complaints, in particular, the dedicated allocation of resources to deal with these complaint numbers, as these could have been allocated elsewhere.
- 5.6 Members also considered options for collaboration, risk appetite, and how to share these learnings with the profession. Members agreed it was important to share themes and trends with the profession, but it was key for all stakeholders to work together on such matters, to enable us to better respond to these situations in the future and, if possible, to reduce the risk of mitigations.

11.58am Observer, A Harvey and Member, A Gibson left the meeting

6. AOCB

- 6.1 Members enquired if the planned Reform Workshops scheduled for late January/early February were going ahead. The CEO advised SMT would review and confirm as soon as possible.

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 Forth Boardroom on **Monday 20 January 2025**, with lunch being provided.
- **Board Development Session will commence at 10am**
 - **Board meeting will start thereafter at 1pm**

9. Review of the Meeting

- 9.1 The Chair thanked everyone for their time and input on to the Conference Call and wished everyone good wishes for the festive season.
- 9.2 With no other business the meeting concluded.

12noon SMT and Secretariat left the meeting

Further Private Member only session

Call ended 12.05pm