

**MINUTE OF A MEETING OF THE MEMBERS OF THE SCOTTISH LEGAL COMPLAINTS
COMMISSION: 1pm on MONDAY 28 October 2024 in the SLCC Boardroom**

PRESENT:

LAY:

Jane Malcolm, Chair
Anne Gibson (*online*)
Jean Grier (*online*)
Niki Maclean, Vice Chair
John Stevenson

LAWYER:

Lynne Collingham
Dale Hughes
Richard McMeeken

Apologies: none

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
RC – Remuneration Committee

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
SP – Scottish Parliament

1. Welcome and Apologies

1.1 The Chair welcomed everyone to the meeting and thanked everyone for their input into to a productive and informative Development Session. It was also noted that Members, Anne Gibson, and Jean Grier were joining online.

2. Declaration of Interests

2.1 The Chair noted the standard declarations of interest declared by Members, 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. Minutes and Matters Arising from Board Meeting on 22 July 2024 and
Conference Call on 23 September 2024**

3.1 The Minute of the Board Meeting was noted and approved as read, along with the Conference call notes, subject to a small typographical change being made to the Board Minutes.

4. Board Actions Register

4.1 Members noted the ongoing Actions and agreed all other completed actions be removed from the register. Updates were provided on the following:

4.1.1 Action 515 – the Chair requested that a date be confirmed for the member training. This was agreed by the CEO and DoR.

4.1.2 Action 565 – the DoBP confirmed an update would be provided at the December Board Conference Call.

5. Key Issues

- 5.1 The CEO spoke to the paper presented and Members agreed all items would be taken as read, with additional updates provided on specific matters.
- 5.2 **Reform** – The DoPP advised Board there was motion going forward in SP tomorrow (29th) to extend the Stage 2 deadline until 28 February 2025. Following this, it is anticipated there will be 4-5 days of scrutiny during January and February, with Stage 3 possibly now moving to March/April depending on when they break for Easter recess. The DoPP gave an overview of the key risks on these timetable delays which will impact the SLCC planning and will have significant implications on these timescales. The CEO and DoPP confirmed they plan to be as prepared as possible, working towards these revised timescales. Members enquired if we would be recalled during the 4-5 committee days to give additional evidence. The DoPP advised it would only be MSPs who would speak to amendments, and only those if they put forward any amendment questions, and confirmed we do not get another opportunity to speak again. It was explained we could write but there is no right to reply on amendments, which was a risk to the organisation if amendments were accepted without the consequences being understood. The CEO confirmed that SMT will listen to the deliberations on the debates during the 4-5 days of scrutiny discussions.
- 5.3 **ABS** – Members noted the update provided by the DoPP.
- 5.4 **Communication and Stakeholder engagement** – Members noted the update provided by the DoPP.
- 5.5 **Oversight** – Members noted the update provided by the DoPP and enquired if the increase in handling complaints was linked to the increase in complaints received. The DoPP explained handling complaints related to Conduct complaints. These normally average 11-15 per year, but so far there have been 19 this year. The DoPP confirmed numbers were being monitored, as normally handling complaints are made at the end of the Conduct complaint process. However, we have received some relating to cases which are mid-way through the Conduct complaint process. Following discussion, it was agreed the DoPP would provide a breakdown in the number of handling complaints received at both the mid-way and end point of the process.

Action	Owner	Due Date
DoPP to review handling complaint numbers and provide a breakdown on those received at the mid-way and end points of the Conduct complaint handling process.	DoPP	20 January 2025

- 5.6 **Cyber update** – Members noted the update provided by the DoBP. The RC Chair enquired if all Members had completed their cyber-security training. The DoBP confirmed everyone was up to date.
- 5.7 **Digital and AI update** – Members noted the update provided.
- 5.8 **S17 Work Update** – Members noted the update provided by the DoR. The DoR gave an overview on the second Court Hearing case. It was noted the Solicitor has until later this afternoon to produce their case files. The DoR advised we are now at the stage to launch a motion tomorrow (29th) in relation to this matter. The DoR gave Board an overview of the current sprint process on S17 cases where we have not received files. Members sought clarification on whether the LSS had issued guidance on 3rd party engagement with the SLCC. The DoPP confirmed they have. The CEO advised most Solicitors/Firms give information and do engage, but some indicate they cannot release any information.
- 5.9 The AC Chair sought clarification on when the review of S17 work would commence. The DoBP and CEO advised this was currently underway, with the IA having started the process in line with the Op Plan. Members discussed whether there was a trend on the types of firms who were not engaging, ie sole practitioners/small/larger firms. Following discussion, it was agreed this data would be discussed at a future Board meeting for analysis.

Action	Owner	Due Date
Output of S17 review audit to be discussed at a future Board meeting for further analysis.	DoR	20 January 2025

- 5.10 **Employment Tribunal (and linked Appeal)** – The CEO spoke to the paper presented giving Board an overview on this matter, confirming this does not relate to an employee or a former employee. The claim has been raised by a Solicitor who believes they were discriminated against on sectarian grounds by our decision to refer a conduct complaint about them to the LSS. The LSS are also cited in the Employment Tribunal claim. The CEO advised there is also a normal CoS appeal on the same case/issues. The CEO confirmed legal advice is being sought, with the same lawyers dealing with both cases. An update would be provided in due course.
- 5.11 **Former Firm (W W & J McClure Ltd)** – Members noted the update provided by the CEO. The DoPP advised there will be a further follow up meeting with the LSS and Lockton relating to the issues with Master Policy. The Chair noted there has been continued engagement on a regular basis with LSS, SRA, LeO and Consumer Scotland to share information. Instrumental to this process at SRA, was Dr Sam Jones, who sadly passed away earlier this month, and sincere condolences were offered to her family. Dr Jones was also a former Board Member at the SLCC.
- 5.12 **Governance** – reminder for Members to provide availability for one-to-one interviews.
- 5.13 **Delegation issue within Appeals** – The CEO advised the CoS hearing has now been set for 12 December. Members sought clarification on whether it was anticipated if there would be an increase or decrease in costs. The CEO thought they would increase, but this will depend on the individual issue of complaint and depend on the wording of the CoS decision.
- 5.14 **Consumer Panel on Reform** – The DoPP provided an update on the Consumer Panel's concerns regarding the proposed expansion of its remit in the Reform Bill, which they feel is without any clarity or transparency on resourcing. Members noted that a paper on the Consumer Panel and its resourcing, will be brought to the November Board Workshop to form part of the budget consideration. The DoPP also advised the Consumer Panel will be discussing the Ministerial response to their concerns, at their December meeting.
- 5.15 **Consumer Duty** – Members noted the update provided by the DoPP.
- 5.16 **Accessibility** – The DoPP advised they recently took the opportunity to sign up to use the SGvt Accessibility Cloud tool, which they share with public bodies. This provides a weekly automated test to flag any issues. The first test saw five issues highlighted across the whole website. This will be continually monitored, with any issues highlighted actioned as required. Members were pleased to note this was being done and sought clarification on the type of issues raised, and how they were remedied. The DoPP explained they related to a website screen reader. For example, what a page was about, where it linked to, and images on a page, the explanation relating to what the image was about. The DoPP confirmed they were working with our web developer on updating the points raised in the audit.
- 5.17 **'Framework' Agreement** – The CEO explained that all public bodies are expected to have a framework agreement in place with SGvt. It was noted it was SGvts responsibility to develop and finalise such agreements, with the NDPB engaging in reasonable negotiation and signoff. Our audit flagged, that despite the SLCC approving various drafts, SGvt have (for various reasons) never finalised the process at their end. As this was flagged again in our audit, the CEO confirmed we are now working with SGvt to again seek to finalise this agreement. Following discussion, Board agreed to delegate authority to the CEO, Board and AC Chairs for the final signoff and approval of the final version of the Framework Agreement document.

Action	Owner	Due Date
Board agreed to delegate authority to CEO, Board and AC Chairs to sign off and approve the final version of the Framework Agreement document.	CEO, Board & AC Chairs	ASAP

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

6. Implementation Planning – cost drivers

- 6.1 The CEO spoke to the paper presented, giving an overview and the reasons for starting this process. SMT acknowledge there will be multiple factors informing how we develop a proper funding model in due course, but felt it was important to start considering the various budgeting options.
- 6.2 The Chair sought Boards’ views on the prioritising of work relating to timetables and resourcing, levy policy work and the possible costs to the profession on this, and the challenges on these with the LSS. Members found the paper helpful, insightful, and very informative. Members also noted that future iterations will be ongoing, and further information will be added as matters progress.

7. Quality Management and Indicators

- 7.1 The CEO spoke to the paper presented, giving an overview of the current process on quality framework to allow a discussion on relevant KPIs. Members agreed it was important to consider the holistic quality of what is reported, and SMT/IMT should be randomly dip-sampling for quality. The CEO agreed, and confirmed IMT routinely conduct a 6-monthly dip sampling to show standards met by staff. The DoR confirmed IMT review quality at all the different stages of the process. Members sought clarification on how their feedback was used, at say the Determination stage, and wondered if they were consistent on the feedback that they provide on the cases considered. The DoR gave an overview of the current process, explaining that Member’s Determination feedback was given to the CIM area leads, and any information highlighted was used for staff development and training purposes. The DoR drew Members attention to point 9 in the Quality Framework document for reference when providing feedback.
- 7.2 Members also suggested that point 6 in Quality Framework document be reviewed for ease of reading. The CEO and DoR agreed this would be reviewed.
- 7.3 Members discussed the splitting down of targets and feedback for CIs who are in training. Members also suggested the Quality Framework should feed into the risk management framework. Following which, Members had a free and frank discussion on the difference between Quality Control and Quality Assurance, concluding they agreed are very different. Following this discussion, Members agreed SMT would review the Quality Framework document to be discussed at the next AC meeting.

Action	Owner	Due Date
SMT to review the Quality Framework document in light of Board’s discussions, prior to being discussed at the next AC meeting in January.	SMT	13 January 2025

8. Management Information for Q1

- 8.1 The DoR spoke to the paper presented, advising the higher incoming complaints has now moved from Eligibility, onto Investigation stage, and as a result the CI resources have been moved around to accommodate this.
- 8.2 Members sought clarification on the Mediation uptake rate. The DoR acknowledged there has been a dip in the uptake and success rate of mediation, explaining after reviewing the data, there was no specific reason for this, and it will continue to be monitored.
- 8.3 Members noted the allocation time at investigation had increased to 11wks for the quarter, and were pleased to note SMT were continually monitoring this issue by moving staff between areas. The DoR confirmed there were six CIs currently on training at present, this includes the new recently appointed CIs. The CEO reiterated they would continue to monitor each stage of the process.

9. Appeals Update for Q1

- 9.1 Members noted the paper presented and sought clarification on whether there were any reasons given as to why Counsel’s opinion/advice changed between the initial advice given, and as matters progress through the Appeal process. Following discussion, it was

agreed the DoR would clarify matters with the current legal panel members at the next quarterly meeting, with the DoR providing an update to Board thereafter.

Action	Owner	Due Date
DoR to provide an update on the possible differences on prospects between the initial legal advice given, and as an appeal progresses through the process.	SMT	20 January 2025

10. Op Plan Update for Q1

10.1 Members noted the paper presented.

11. Strategic Risk Register

11.1 The DoBP spoke to the paper presented, advising Members that three risks had increased following discussions at the recent AC meeting. Members noted these were Risks 4, 10 and 11.

11.2 The AC Chair gave a brief overview of the AC discussions, in particular on Risk 11, which they all found very helpful, with the AC Chair confirming the RR was discussed in detail.

11.3 Members noted the paper presented and agreed the RR should be a dynamic and fluid, adapting to changes in risks to the organisation.

12. Finance Management Report for Q1

12.1 The DoBP spoke to the papers presented and reported on the FMR spend to end September 2024.

12.2 The DoBP reported, based on actual income against budget, the income was up £96,132, with an expenditure underspend of £36,626. The Levy income is £86,745 ahead of budget, this is due to slight increase in numbers from that predicted. The DoBP advised they were liaising with the LSS for the figures for 2025/26 budget.

12.3 The DoBP also advised that they were still awaiting on outcome of the 2023/24 pay deal, which they hope will settle soon.

12.4 Members noted that property costs showed a slight saving of £11k compared to budget, this was due to receiving an unexpected refund of service charges from the Stamp Office. The DoBP confirmed this now settled all matters relating to the Stamp Office.

12.5 Members noted the overspend on IT costs, which was linked to the new HR system.

13. Annual Accounts and Audit Scotland Annual Audit Report Update

13.1 The DoBP apologised for the delay in circulating the final draft copy of the Annual Accounts and Annual Report to Board. The DoBP also reminded Members that AC would be having an additional meeting on Wednesday 30 October, to fully discuss and formally approve, subject to Board's discussion and final sign-off of the final accounts for yearend today.

13.2 Annual Accounts – The Chair sought assurance that the figures were as expected for this point in the financial year. The DoBP confirmed they were, advising they would be reporting a deficit of £169k against a budgeted deficit of £156k, and were reporting reserves of £1,274m.

13.3 Members noted the other notes to the accounts as highlighted by the DoBP.

13.4 Audit Scotland Annual Report – The DoBP reminded Members this was the unmodified audit opinion, which was the best that can hoped for with audit terminology. The DoBP explained the three points highlighted within the report, under significant findings. These related to:

13.4.1 An error in the presentation of our disposal, which was not shown on a separate line SoCNE, and included depreciation. This has been rectified.

13.4.2 The incorrect discount rate was used for the IFRS16 Calculation. The method of calculation was sound. However, it was identified that the rate had changed, meaning the value of asset reported was overstated, as was the depreciation, and the finance costs were understated. This resulted in an adjustment of £9k which has been rectified.

- 13.4.3 The spend of £1,300 on the staff Christmas party. This was for a cocktail making class held in the office for all staff who were attending. The value was well below the level of materiality and was within the long-standing benefit that there is a contribution to staff Christmas parties. This did also not go against our own policies. The Auditor highlighted this in light of issues in other Public Sector Bodies. The DoBP advised the Senior Audit Manager raised this issue with the Chair of the AC.
- 13.4.4 The Framework Agreement – They also identified best practice and the lack of a Framework Agreement with SGvt. The CEO reported the Framework Agreement has been worked on for a number of years, however, to date it has not been formally signed off. The CEO confirmed they were proactively working on the document with the Sponsor Team.
- 13.5 The Chair thanked the DoBP and CEO for their update to the papers presented and confirmed that Members had discussed the points raised by Audit Scotland in their private session. Following which, it was agreed, the AC Chair, the CEO and the DoBP would raise the matters discussed, at the extra AC meeting later this week, with a view to including additional wording being added, in response to the points raised by Audit Scotland.
- 13.6 Members also agreed that both the Framework Agreement document and the Staff Benefit Policy should be reviewed and updated appropriately. The DoBP confirmed that the current individual staff policy states the SLCC do not pay for alcohol. The CEO confirmed both of these documents will be reviewed.
- 13.7 Board agreed to delegate authority to the CEO to formally sign-off the final accounts and annual report at the AC meeting on Wednesday 30 October.
- 13.8 The Chair reiterated the Board's thanks to staff who worked with Audit Scotland on the final reports and expressed their thanks to AC for their valuable input into this work on behalf of the full Board.

Action	Owner	Due Date
CEO and SMT to finalise the Framework Agreement document with SGvt, and review the Staff Benefit Policy.	CEO/SMT	ASAP

14. Customer Service Experience Report for Q1

- 14.1 The DoR spoke to the paper presented, giving an overview of the overall service experience feedback results for Q1. Explaining that the project refresh of the feedback system now gives a more proactive response to customer feedback.
- 14.2 The DoR explained that service users now get the opportunity to feedback at three different times throughout the process. Initial feedback is sought at the Eligibility stage; also, when the complaint is closed, and then lastly, there is now an opportunity to provide feedback via an ad hoc survey that is on the website.
- 14.3 The DoR reminded Members this 'new' system of feedback will not be directly comparable with the 'old' feedback that was previously presented to Board, as different questions are now asked at different stages. Members agreed it was difficult to analyse the free text comments provided in responses and wondered if case numbers were asked for. The DoR confirmed they are asked for, but often not provided by service users.
- 14.4 Members considered the responses received and presented in Annex 1, and sought clarification on how many responses this data was based on. The DoBP explained at the mid-point reporting, there were a total of 29 responses – 2 from practitioners and 27 from complainers, and at the closed case reporting, there were a total of 69 response – 11 from practitioners and 58 from complainers. Members had a free and frank discussion on how free text feedback could be analysed. Members also thought it would be helpful to follow initial feedback through to closed case feedback, and wondered if any correlation could be made, but acknowledged this might not be possible, if no case reference numbers were provided. SMT agreed.
- 14.5 Members enquired if the survey questions would be reviewed, and suggested they might wish to add, 'what could be done better?' Both the CEO and DoBP acknowledged this question was specifically not asked. However, the CEO confirmed it was in the Op Plan to

review the questions once we have gathered a few quarters of data. It was agreed this could be reviewed after a year. Members agreed this could feed into the Quality Improvement Plan.

14.6 The Chair thanked the team for this information.

15. Chairs Report

15.1 The Chair reported they had received a good field of candidates during the recent Board Member recruitment process, and they would be conducting the shortlisting process tomorrow (29th), with interviews taking place on 28 November for appointment in January 2025, if all goes to plan. The Chair thanked everyone for sharing the recruitment post.

16. AOB

16.1 The Chair reminded Members to let the Secretariat know their availability for their 1-1 appointment with the Governance Project Consultant, so these could be firmed up.

16.2 None other noted for discussion.

17. Update note from the Audit Committee of 14 October 2024

17.1 Paper was noted as read.

18. Update from the Remuneration Committee of 15 October 2024

18.1 Paper was noted as read. The RC Chair reported there had been good discussion at the RC meeting and gave an overview of the proposed pay offer. The DoBP confirmed RC were seeking Board's approval to make an acceptable formal offer to PCS. The Chair sought agreement from Board, who confirmed they were all in acceptance of the proposed pay increase for all staff. The DoBP thanked Board and confirmed this would be shared with PCS at their next meeting. Members sought clarification as to when this would be paid to staff. The DoBP advised this depended on formal agreement with PCS, but reminded Board this would be backdated to 1 April 2024.

19. Minute from Consumer Panel of 4 June 2024

19.1 Members noted the paper presented.

20. Chief Executive's Report

20.1 Members noted the meetings attended by the CEO.

21. Date of Next Meetings

21.1 Members noted the date of the next meeting would be a Board Workshop Conference Call on **Monday 25 November 2024 at 10am** to discuss board priorities and budget models.

21.2 There would also be a Board Conference Call on **Monday 16 December 2024 at 10am** to finalise budgetary planning.

21.3 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**

19. Review of the Meeting

19.1 With no other business the meeting concluded.

3.17pm the SMT left the meeting with Board holding a Private Member only session

3.30pm Board Meeting ends