

**MINUTE OF A MEETING OF THE MEMBERS OF THE SCOTTISH LEGAL COMPLAINTS
COMMISSION: 12.30pm on MONDAY 22 July 2024 held in the SLCC Boardroom**

PRESENT:

LAY:

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

LAWYER:

Lynne Collingham

Apologies:

Anne Gibson
Dale Hughes
Richard McMeeken

In attendance:

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

Louise Burnett (DoBP)
Caroline Robertson (DoR)

Abbreviations used:

WIP – Work in Progress	DC – Determination Committee
FMR – Financial Management Report	LSS – Law Society of Scotland
AC – Audit Committee	FoA – Faculty of Advocates
CI – Case Investigator	CIM – Case Investigations Manager
RPO – Relevant Professional Organisation	SGvt – Scottish Government
IMT – Investigations Management Team	CoS – Court of Session
JT – Journey Time	WT – Working Time
DoR – Director of Resolution	DoPP – Director of Public Policy
DoBP – Director of Business Performance	SP – Scottish Parliament

Private Member only session, after which the Meeting Chair invited SMT and Secretariat to join the meeting at 12.46pm

1. Welcome and Apologies

- 1.1 The Chair welcomed everyone to the meeting and thanked everyone for their input into a very productive and informative morning Development Session.
- 1.2 Apologies were noted from the Members, Anne Gibson, Dale Hughes, and Richard McMeeken.

2. Declaration of Interests

- 2.1 The Chair noted the standard declarations of interest declared by Member, Lynne Collingham 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 April 2024 and Conference Call on 10 June 2024

- 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 be removed from the register. Updates were provided on the following:
 - 4.1.1 Action 515 – ongoing, date still to be confirmed.
 - 4.1.2 Action 552 – ongoing, DoBP still clarifying with Insurance brokers.

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 SP are in recess at present so there are no new points to update on at present. However, we do remain in touch with our contacts in SGvt.
- 5.3 **ABS** – the CEO advised Members, the LSS have informed us this been delayed and gave a brief explanation to the reasons.
- 5.4 **Communication and Stakeholder engagement** – Members noted the update provided by the DoPP.
- 5.5 **Oversight** – the DoPP stated our report on the FoA’s conduct complaint processes has now been published, advising there has been good engagement with the FoA on the 5 recommendations suggested. Members noted the update provided by the DoPP.
- 5.6 **Cyber update** – the DoBP advised we have now been awarded the Cyber Essentials Plus accreditation and advised they have begun the roll-out of new laptops to all staff.
- 5.7 **Digital and AI update** – Members noted the update provided.
- 5.8 **S17 Work Update** – the DoR advised they would be attending the CoS for a Contempt of Court Hearing and gave a brief background to the reasons for this. Members noted the new sprint involving S17 cases, where we will trial going straight to investigation without the firm’s file, then subsequently moving straight to a member decision instead of using S17 powers to seek files. Members enquired if the CI would identify these cases when listing them for Determination. The DoR confirmed they would and the CIM project lead would ensure there is a process in place for this.
- 5.9 Members noted plans for an audit of solicitors’ failure to respond and/or extension requests. This could be compared to the previous audit from two years ago, to assess if any progress were being made. Members enquired if there would be an extra cost if there was an external review of files, and who would conduct this. The DoR explained this would be conducted by the Internal Auditors (IA) and confirmed there would be a cost, if the audit was fully scoped. It was noted there was a value to an independent review as stakeholder had previously questioned the level of non-compliance cited by the SLCC. The CEO clarified this project would form part of the annual IA Audit Plan and was included in the 2024/25 budget costs. Members acknowledged this would be a large piece of work, and that it would depend on capacity of staff as to when it is planned to commence.
- 5.10 **Operating Plan** – Members noted the update provided.
- 5.11 **McClure Solicitors, former firm** – Members noted the update provided now included RAG ratings against each of the risks and mitigations identified by SMT. Members thanked the CEO for this as they found it helpful. The CEO reported incoming case numbers were now stabilising, and CIs are working through all cases. The DoPP was pleased to report that the previous issues regarding delays to payments of the awards of compensation, actual and measurable loss to parties, and the complaint levy payments, now seem to have been resolved.
- 5.12 **LSS Conference** – dates noted by Members.
- 5.13 **SSDT Burden of Proof Consultation** – Members noted the current consultation from SSDT on the burden of proof applied to misconduct. The CEO explained that the SSDT currently use ‘beyond all reasonable doubt’, which has been for a long time out of kilter with most professional regulators in the UK. The CEO gave an overview of the SLCC policy view on this, which was included in the reform debate, and in the previous consultation response to SSDT in 2019.
- 5.14 The Chair provided an overview of observations received in advance from Members. Various concerns were noted about current processes in the SSDT which may need adjusted if the burden of proof changed (and which, if not changing, would be of concern were the burden of proof to change). A range of views were expressed on the potential changes, with individual members noting personal views and those of other organisations they were involved in. The Chair noted the long-term published policy position of the SLCC on the matter and that if other factors raised concern, were this change to be made, then we should address those issues in our response. The CEO thanked Members

for their views, and noted if the change were to be implemented, it would usually be necessary for an organisation to work through implications at all stages of their process and operation, and that other bodies changing their burden of proof had done this. The CEO advised this would be incorporated into the response to the consultation.

- 5.15 **Governance** – initial meeting date has been set.
- 5.16 **Recruitment of new Member** – Members noted the current position.
- 5.17 **Equality Project** – the Chair asked any members interested in this project to email the CEO directly.
- 5.18 **Conference Attendance by Executive** – the CEO explained the current position regarding the executive’s attendance at external conferences etc. It was noted previously the executive attended certain events annually, ie the LSS and Ombudsman Association conferences. Pressure to maintain or reduce the levy in the past, led to all funding being cut. The executive recognises the sensitivity in attending events, especially those outside Scotland/UK and further afield due to the cost implications on budgets, and they always consider the ‘best value’ duty so that they justify attendance in relation to strategy, work and importantly, the business needs of the organisation. Members agreed the Board composition had changed since this was initially discussed and were assured that as the executive will continue to make assessments based on relevance of content, translatability of content into our work etc. Board agreed that an initial provision should be made in the 2025/26 budget, for discussion as part of the normal budgeting process.
- 5.19 The Chair thanked SMT for their updates to the paper presented.

6. Update on Reform Implementation Planning

- 6.1 The CEO spoke to the paper presented, giving a brief overview of paper which included timelines, costs, and scopes of projects. SMT were conscious that all this planning is indicative, as it is still uncertain whether the Bill will progress or not. That said, it had been a valuable exercise which would assist when any real detail to base proper planning on was available and more certain. The Chair acknowledged this, and Members sought clarification on the high-level indicative costs. The CEO explained these were based on a ‘best guess’ as there was no information from SGvt on implementation timelines, we don’t know what will be in the final Bill, and although we have seen the financial memorandum accompanying the Bill, we don’t know by the time of implementation what, if any, financial support there will be for this. The Chair also thought it might be helpful to specify ‘duty on us’ as well as ‘regulatory/optional’.
- 6.2 Members recognised that as the Bill progresses, these projects will all need reviewed and mapped alongside the financial memorandum. Members found including the FTE headcount very helpful. Members considered the risk implications on each of the projects identified and suggested that a risk benefit analysis also be included. Following further free and frank discussion, it was agreed this would be brought back to the September meeting for update. Members requested staff costs per FTE be included for each project. The DoBP agreed this could be provided per project.

Action	Owner	Due Date
DoBP to include staff costs by FTE per project.	DoBP	By 23 September 2024

- 6.3 The Chair thanked the SMT for this information, agreeing with Members this was a useful exercise, helping to focus on transition projects and costs.

7. Review of Member Expenses

- 7.1 The Chair gave a brief overview and explanation for the suggested proposal to amend the Member Expenses. The Chair explained this would include moving to assigning blocks of time for key activities, and the potential of moving to a more automated spreadsheet to submit claims. The Chair thanked Member, Jean Grier for their input into the paper.
- 7.2 The Chair noted it was right we reviewed this element of our operations periodically, so whatever the outcome of the discussions, a valuable purpose had been served by the review.

- 7.2 Members had a free and frank discussion on the current expenses policy and form. Members noted the current system was the output of the previous expense form having been reviewed by the Rem Com. Board Member, Niki Maclean explained that one of the first projects for Rem Com was to simplify the previous Member Expense system, which had a lot more cost-codes. This review resulted in the current system/expense form. Following discussion Members agreed they found the current form easy to use and complete. Members also agreed for good governance, it was important to have discussed and reviewed the current system. The DoBP explained it would be a project for the Digital Specialist to transpose the current form into a more automated format, making it easier for Members to complete and submit monthly for payment.
- 7.3 Following this discussion, the Chair agreed and confirmed they would continue with the current Member Expense form/system, with a view to an automated form being developed, which Members agreed would be helpful.

Action	Owner	Due Date
DoBP to progress the development of an automated Member Expense form with the Digital Specialist.	DoBP	Q2

8. Key Performance Data Q4

- 8.1 The DoR spoke to the paper presented, advising these figures represent the end of year figures, and confirmed these would be used for KPI planning moving forward.
- 8.2 The DoR explained that to ensure that we continue to have the flexibility of CIs moving between Eligibility and Investigation, they would also be advertising for additional CI roles. This will also cover the internal promotion of a CI to CIM, and a forthcoming maternity leave cover.
- 8.3 Members discussed the YoY comparison figures and following this discussion, it was agreed the CEO would clarify and provide an update to Board after the meeting.

Action	Owner	Due Date
CEO to clarify YoY comparison percentage and update Board following the meeting.	CEO	By 29 July 2024

- 8.4 The CEO explained these figures would be presented in a different format for Q1 reporting, following previous feedback from Board.
- 8.5 Members noted JT averaged just below target at 7.6 months for Q4, which was less than the 7.9 months or less KPI target.
- 8.6 Members noted concern that the pre-issue QA eligibility was red (11%). The DoR explained the reasons was due to ongoing training and performance issues, which are being monitored. Members suggested this data be presented in a different format, so that Board have assurance SMT/IMT are monitoring QA. The CEO assured Board this was the case, and following discussion, it was agreed the quality framework would be brought to the September Board for further discussion and review.

Action	Owner	Due Date
Quality framework to be brought to September Board meeting for review and discussion.	CEO	By 23 September 2024

- 8.7 Members noted the other figures presented.

9. Appeals Update for Q4

- 9.1 The DoR spoke to the paper presented and advised following discussions at the last meeting, IMT have reviewed the presentation of figures for reporting to Board. The DoR sought Board's views on the revised presentation format. Members suggested that it would be helpful to include the reasons for grounds of appeal, conclusion, and expenses. Members also asked if links could be included to published decisions. Members agreed this paper should give assurance that appeals are robustly defended, that costs are collated, and any trends/learnings are shared where appropriate.
- 9.2 Following further discussion, it was agreed that whilst Members found the new format helpful, they asked for the additional information to be included. It was agreed this would be reviewed for Q1 reporting to Board.

Action	Owner	Due Date
Appeal paper to be reviewed to include points raised in future reporting paper.	DoR	Q1

10. Op Plan Update for Q4

- 10.1 The DoPP spoke to the paper presented and advised Members there was only one project which had not yet concluded, and it was anticipated this will be reported next quarter. The DoPP reminded Members that future reports will move to report by exception and include a link to the Op Plan in the paper.
- 10.2 The Chair thanked the DoPP on behalf of Board for everyone concluding all other projects, and Members noted the paper presented.

11. Strategic Risk Register Summary

- 11.1 The DoBP spoke to the paper presented and advised Members this was discussed fully at the AC meeting last week. The DoBP also advised the updates to Risks 3 and 4 have been reworded to reflect the AC discussions on the Best Value paper. Risk 4 has also been updated to include 'failure to process handling complaints', and Risks 10 and 11 (Reform) have also been updated to reflect the delay to the Stage 2 timetable.
- 11.2 Members were content with the information provided and noted the paper as read.

12. Finance Management Report for Q4

- 12.1 The DoBP spoke to the papers presented and reported on the FMR spend to end June 2024. The DoBP reminded Members this was not the final yearend position, as there were several adjustments still to be processed.
- 12.2 The DoBP advised interest rates continue to rise, meaning we were £76k ahead of budget.
- 12.3 The DoBP reported the overall income was up £118,287 on year-to-date budget, with expenditure showing an overspend of £8,774. The DoBP advised that the Levy Income for 2024/25 was £82k over budget, this was due to a change in the predicted number information and payments from our key stakeholders.
- 12.4 Members noted for information the Bad Debt table, advising that one individual, who was a sole practitioner, has since passed away, and one firm on the list has now been sequestrated. The DoBP thanked Members for this information and would ensure that the table was updated for next reporting.
- 12.5 Members thanked the DoBP for the update to the paper presented.

13. Customer Feedback for Q4

- 13.1 The DoBP spoke to the paper presented and gave an update on Q4 response rates. The DoBP reminded Members the presentational format had changed for Q4 reporting.
- 13.2 Members sought clarification on a point (3.8) raised under the free text comments, which appears to relate to the collapse for the firm McClure. The DoBP advised the CI was clear in directing them to other bodies who would be able to assist them, and confirmed this point was also followed up, as a case reference number was provided. The DoPP confirmed this was correct.
- 13.3 Members sought clarification on a point (3.12) raised under the free text comments, where a firm appeared to have three representatives present during a mediation and wondered if this was normal practice. The DoR advised this was not normally the case, usually a firm is either represented by the named Solicitor and CRM, or just the CRM. The DoR acknowledged it was difficult to follow this point up as there was no case reference provided. The DoR explained it might have been that two solicitors were involved and joined along with the CRM, who was also in attendance, it was difficult to know, as this was an online mediation. The Chair suggested this information be feedback to the Mediators. The DoR confirmed it would be as a matter of course, as we would always encourage only the CRM to attend.

- 13.4 Members noted the new SET project for capturing feedback by trialling ‘Trustpilot’ and how to respond to reviews left in this domain. However, Members noted their caution as it was very difficult to redact so as not to identify staff if a member of the public leaves a review. Members sought clarification on how we captured – ‘you said/we did’ etc. The DoPP reminded Members this was in the annual report last year and would again be covered this year. It was also in the 2024/25 Op Plan for Customer Service feedback project work to continue thinking about how we do this.
- 13.5 Members noted there was an interesting point (3.16) raised under the free text comments, in relation to compensation awards and sought clarification on when these were last reviewed. The CEO advised these are set in statute (2007 Act), the maximum we can award overall is £20,000, and within that a maximum of £5,000 for loss and distress, however noting it is common for claims to be higher even though the IPS value was low. Members discussed whether information should be shared with parties on this. The CEO advised information was available on the website but acknowledged it was difficult to balance the expectations of parties concerned. Clarification was also sought as to whether there were case studies on our website and whether we sign-posted to other organisations. The CEO and DoPP confirmed we do.
- 13.6 The Chair thanked SMT for their explanation to the paper presented.

14. Chair’s Report

- 14.1 The Chair advised they had a good constructive meeting with the LSS executive, which included their CEO, President, and Chair of their Regulatory Committee, along with our CEO and DoPP.

15. AOB

- 15.1 The Chair reported Rem Com would again be meeting quarterly going forward.

16. Update note from the Audit Committee of 8 July 2024

- 16.1 Members noted the paper presented.

17. Minute from Consumer Panel of 5 March 2024

- 17.1 Members noted the paper presented.

18. Chief Executive’s Report

- 18.1 Members noted the paper presented and sought an update on the meeting with the LSS regarding budget/levy. The DoBP gave a brief overview of the meeting, during which the LSS were reminded of the statutory timescales for payment of the levy. The DoBP advised the estimating of numbers were between an acceptable band and will be reviewed for next year.

19. Date of Next Meetings

- 19.1 Members noted the date of the next meeting would be a Board Conference Call on **Monday 23 September 2024 at 10am** to discuss the budget consultation responses.

20. Review of the Meeting

- 20.1 With no other business the meeting concluded.

3.00pm the SMT and Secretariat left the meeting

Private Member only session, after which the Meeting Chair confirmed with the Secretariat the Board Discussion on item 20.

21. Chief Executive's End of Year Review 2023/24 and 2024/25 Targets for CEO/SMT

- 21.1 The Chair confirmed that Members approved and warmly endorsed the CEO's end of year review, forward objectives and proposed learning and development for the year ahead, as set out in the Chair's paper discussed in the private session.

3.10pm Board Meeting ends