SCOTTISH POLICE AUTHORITY
ÙGHDARRAS POILIS NA H-ALBA

Legal Committee

1 August 2023

Minutes of the Legal Committee held on Monday 13 March via MS Teams

Board Members present:	Jane Ryder (Committee Chair) Grant Macrae Michelle Miller Caroline Stuart
Board Member apologies:	Catriona Stewart
In attendance:	**Police Scotland** ACC Alan Speirs James Douglas Angelo Gustinelli Alasdair Corfield **SPA** Lynn Brown Jackie Kydd (Item 2 only) Robin Johnston Susan Montgomery Eric Leggat Eleanor Gaw (Item 16 only) Colette Craig

1. Introduction and Welcome:

1.1 Chair's Opening Remarks

The Chair advised that as previously reported to the Board, one of the key objectives for the Legal Committee over recent months, has been a drive to ensure an increase around the transparency and visibility of the committee and its work. By doing so the committee will be increasing the overall public accountability and transparency of the Authority in its oversight role, which in turn supports public trust and confidence in Police Scotland.

The Chair noted this as the first public session of the committee, operating in accordance with SPA corporate governance requirements and Standing Orders. Going forward the committee will be conducting at least part of the regular meetings in public.

The Chair advised that she will be adopting a policy of principled pragmatism, operating within clear expectations of transparency but also appropriate confidentiality, and that pragmatism recognises that the committee will be looking for continuous improvement not immediate revolution.

In public there will be a focus on seeking overall systems assurance. This will include being better sighted of underlying data, allowing analysis and identification of different aspects such as emerging trends. The Legal Committee is on much the same journey as the Complaints and Conduct committee, as seen in meetings and in their recently published Annual Report.

Due to the nature of the Committee's remit, which includes consideration and decisions on individual cases we will always expect a significant amount to be conducted in private. Although that will always be appropriate members will also give consideration to other options. Examples might include publication of a paper with appropriate redactions following a meeting and/or more detail given by way of the Committee Chair's report to Board meetings, as was the case last month when reporting on our consideration of how Police Scotland is handling and responding to the Sheku Bayoh Inquiry.

1.2 Apologies

Catriona Stewart

1.3 Declarations of Interest and Connections

None

1.4 Decision on taking business in private (Item 7 – 16)

None

2. Statistical Report of Ill Health Retiral and Injury on Duty Awards

Members were provided with a report that included an update on the ill health retirement and injury on duty decisions since the proposal of the Committee, and subsequent approval by the Chair, that these remain the delegated responsibility of the SPA Chief Executive. Jackie Kydd (JKydd) noted that this matter is also discussed at the People Committee in terms of improvements within this space, however, reports to the Legal Committee due to the delegated authority being placed there. During discussions the following matters were raised;

Members welcomed the improvements noted within the report and paid tribute to the team in Police Scotland for their work in this area.

Members **NOTED** the report.

3. Police Scotland Legal Data

As part of a desire to enhance organisational learning, members asked for Management Information to be provided within the statistical reports provided to the Committee on litigation settlements. This report provides information on the data held by Police Scotland Legal Services together with an overview of work being done to enhance Management Information that could be made available to the Committee in the future. During discussions the following matters were raised;

The Chair acknowledged that there was no new Case Management or Document Management System in place, however, a development of existing systems. James Douglas (JDouglas) agreed that this was work being done to enhance the current system. Police Scotland are alert to the recommendations within the Internal Audit Report around the need for a new Case Management System, it is hoped that these amendments will bring forward some statistical information that members will find useful.

Members sought clarity around how this system tied into the journey/progress of a case. JDouglas advised that the claims register

will continue to have free entry box to detail how a case is proceeding, however, this makes it extremely difficult to provide any analysis. JDouglas added that Finance and Police Scotland solicitors have access to the register which allows them to see the progress of cases. JDouglas noted that without case management it was a difficult thing to bring to the committee, however, assured members that the current system was under constant governance.

The Chair welcomed the proposals noted within the report, and although not agreed internally within Police Scotland, members agreed that those changes should be introduced. The Chair asked that the Committee be provided with an update on whether the proposals had been agreed and implementedby September 2023.

Members **NOTED** the report and **AGREED** the following action:

20231303-PLC-001: James Douglas to provide a progress update on the proposed changes by September 2023. *(as we do not have a scheduled meeting for Sept 23 it is asked that this update is provided for the August committee, if an update cannot be provided then a written response by September 2023) would be expected*

4. Non-Disclosure Agreements

Throughout 2022, reports have been laid before the Legal Committee detailing the number of non-disclosure agreements (NDAs) entered into by Police Scotland and providing anonymised summaries as to why they have been used. This was done to ensure that members are satisfied that there is strong governance around the use of NDA's and that they are never used to prevent whistleblowing or breach ACAS guidance. During discussions the following matters were raised;

Members welcomed the increased transparency that the report represents and askedwhether there was scope to reduce the number of NDAs further. In addition, members sought clarity on whether requests for an NDA from the other party were analysed and assessed before being agreed. JDouglas referred to mechanisms in place to decrease the numbers used and advised that Police Scotland enter into NDAs in 2% of settled cases. These are often for commercial reasons or at the request of the other party. JDouglas added that he did not have much power to reduce the use of NDAs further, however, those that are entered into are done so for good legal reasons. JDouglas advised that Police Scotland take the view that if another party wish to keep their settlement figure private, then they agree as doing otherwise might affect the other party's willingness to settle. When the other party involved in the litigation wishes to enter into an NDA their reasons are recorded.

JDouglas advised that he would bring forward an annual report detailing Police Scotland's use of NDA's. Members AGREED that there was no longer a requirement for this information on a quarterly basis and were content that an annual report was provide going forward.

Members **NOTED** the report and **AGREED** the following action:

20231303-PLC-002: James Douglas to bring forward an annual report detailing Police Scotland's use of NDA's in March 2024.

5. Review of SPA Litigation and Claims Procedure

Members were provided with a report which sought approval of the revised SPA Litigation and Claims Procedures. Members had no questions in relation to the report.

Members **AGREED** to **APPROVE** the revised SPA Litigation and Claims Procedures

6. Legal Committee Workplan

The Chair noted that in due course the workplan will reflect discussions and agreements during the committee, particularly in relation to Legal Costs and Annual Report on NDA's.