



## Legal Committee

7 November 2024

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Minutes of the Legal Committee held on 8 August 2024 via MS Teams

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Board Members present:	Caroline Stuart (Committee Chair) Grant Macrae Christopher Creegan Pauline Howie
Board Member apologies:	Tom Halpin
In attendance:	<b><u>Police Scotland</u></b> James Douglas, Legal Services Manager Vicky Watson, Chief Superintendent  <b><u>SPA</u></b> Robin Johnston, Head of Legal Susan Montgomery, Lead Solicitor Eric Leggat, Solicitor Colette Craig, Governance Support Officer

## **1. Introduction and Welcome:**

### **1.1 Chair's Opening Remarks**

The Chair welcomed Chris Creegan and Pauline Howie to their first Legal Committee following their recent appointment to the SPA Board.

### **1.2 Apologies**

Tom Halpin, SPA Board Member

### **1.3 Declarations of Interest and Connections**

None.

### **1.4 Decisions taken since last meeting**

The Chair advised that the committee had taken decisions in private under section 20 of the standing orders, on the 10<sup>th</sup> June 2024 and 19<sup>th</sup> July 2024 regarding an ongoing legal matters.

### **1.5 Decision on taking business in private (Item 6-9)**

Members agreed to take items 6-9 in private.

## **2. Minute and Actions from previous meeting:**

### **2.1 Minute from meeting held on 14 May 2024 for approval**

Members **AGREED** the Minute from the Legal Committee on 14 May 2024 was an accurate record of the meeting.

## **3. Legal Services Claims Handling - Quarterly Statistical Information Report - Trends & Analysis in litigation**

James Douglas (JDouglas) provided an overview of this quarterly report of settlement figures arising from claims raised against Police Scotland. During discussions the following matters were raised;

Members were provided with a report updating them on settlement figures arising from claims raised against Police Scotland. Although members welcomed the information provided, they requested that information is presented in line graphs to allow members to clearly understand trends. In addition, members have requested narrative in the report as opposed to just data, as well as details of any learning being taken forward.

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

**20241006-LC-001: James Douglas to include narrative within future reports informing members around the figures presented, as well as details of any learning being taken forward. In addition, present information for each type of claim in line graphs to allow members to clearly understand trends.**

#### 4. Non-Disclosure Agreements Annual Report

Members were provided with a report showing the number of NDAs entered into by Police Scotland during 2023/24 and providing anonymised summaries as to why they had been used. The report was produced with a view to satisfying the Committee that there exists strong governance over the use of NDAs, that they are never used to prevent whistleblowing or other unlawful acts, and that Police Scotland complies with ACAS guidance on their use. During discussions the following matters were raised;

Members asked about the percentage of employer liability claims, or Employment Tribunal claims, in which NDAs are used (i.e. excluding motor claims). Members sought assurance that Police Scotland's use of NDAs complied with ACAS Guidance and the Scottish Public Finance Manual and how that was tracked. Members also asked, that if NDAs are used in employee liability claims and ET claims, how is that learning being taken forward. JDouglas advised that all employment lawyers within the department are aware of the ACAS criteria and assured members that the guidance is followed for each case. Members were advised that for any clause that is inserted it is made clear that they were compliant with ACAS guidance, with logs kept with a justification for the use of NDAs in each case. Members were advised that any learning becomes a matter for the instructing department, via P&D or the Divisional Commander.

Members sought clarity around the term "preservation of employee relations" which appears as a justification in relation to some of the NDAs, and how that aligns with ACAS Code of Practice. Members also asked what was meant by "commercial reasons" which appears as a justification for the use of NDAs in several cases. JDouglas said that certain legal firms make large amounts from taking on cases against Police Scotland, and it has been identified that offers of settlement should not be public knowledge and that NDA's should be used to protect the organisation from a commercial position in relation to financial amounts only. With regards to "preservation of

employee relations”, NDAs are used to protect those who continue to work in the organisation around what happened and how much they settled at. JDouglas assured the Committee that this does not interfere with any of the criteria under the ACAS guidelines, nor does it prevent whistleblowing.

Members **NOTED** the report.

## **5. Committee Priorities and Outcomes**

Robin Johnston (RJohnston) provided an overview of the report that had been produced and agreed with the Chair prior to the committee. During discussions the following matters were raised;

Members welcomed the proposal of attendance of staff from PS Finance to the committee to assist with the tracking of cases expected to settle at the committee along with having grossing up figures if they apply to cases settling. The Chair asked that Alison McDowall, Finance Business Partner, be invited as a regular attendee to future Legal Committee meetings.

Members asked that the priority around data be updated to emphasise the importance of the way in which data is presented by Police and the need for narrative in statistical reports.

Members asked how organisation learning from cases is communicated at a more strategic level. JDouglas advised that although Police Scotland’s Legal Services dept play a role, Police Scotland’s executive team is currently considering arrangements for organisational learning. Members asked that ACC Paton and ACC Houston are invited to future committee meetings to provide updates in relation to organisational learning from litigation and claims.

Members referred to the learning of individual cases and noted the importance of learning from trend analysis. The Chair asked that this was considered for future reports in relation to NDA’s.

Members **NOTED** the report and **AGREED** the following actions;

**20241006-PLC-002: Alison McDowall, Finance Business Partner, to be invited to all future Legal Committees to provide finance updates to members.**

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**20241006-PLC-003:** Robin Johnston to update the priorities in relation to data are around presentation, interpretation and narrative to support all of that.

**20241006-PLC-004:** ACC Paton and ACC Houston to be invited to future committee meetings to provide updates in relation to organisational learning from litigation and claims.

**20241006-PLC-005:** James Douglas to provide trend analysis within future NDA annual reports.

