# Special GENERAL MEETING

Minute (draft) of the Special General Meeting of the Law Society of Scotland held at the Society’s Offices at Atria One, 144 Morrison Street, Edinburgh on Friday 6 September 2019 at 09:30am.

Present: John Mulholland (President), Amanda Millar (Vice President – by telephone conference), Alison Atack (past President), George Allen, Colin Anderson, Waqqas Ashraf (by telephone conference), Susan Carter (Lay Council Member), Michael Clancy, Alistair Cockburn, Jane Dickers, Murray Etherington, Paul Kearney, Austin Lafferty, Philip Lafferty, Fiona Larg (Lay Council Member), Anne Macdonald, Stephen McGowan, Derek McIntyre, Christine McLintock, David Mair, Euan Mitchell, Susan Murray, Paul Nicolson, Peter Nicolson, Campbell Read, John Reid (Lay Council Member), Serena Sutherland and Vlad Valente (by telephone conference).

In attendance: Lorna Jack (Chief Executive), David Cullen (Registrar), Mark Gray (Lockton) and from time to time other members of the Society’s Executive.

Apologies for absence were intimated from: Amanda Davy, Francis Gill, Paul Gostelow, Gwen Haggerty, Catriona Maclean, Ruaraidh Macniven, Liam McCabe, Tom Marshall, Paul Matthews, Elaine Motion, Naomi Pryde, Jim Stevenson, Graham Watson and Sheila Webster.

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|  | **WELCOME**  The President welcomed everyone to the Special General Meeting of the Law Society of Scotland held in its 70th year. |
|  | **PROCEDURAL ARRANGEMENTS**  The Registrar ran through the procedural arrangements for this Special General Meeting. The notice for the meeting had been sent out on 14 August. No amendments had been received to the resolution on the Practising Certificate fee as set out in the notice.  The Registrar reported that advanced votes had been received with respect to the Resolution number one on the proposed Practising Certificate fee for 2019/2020 of £575 –   * 73 advance votes in favour of Resolution one. * 42 advance votes against Resolution one. * Four abstentions in relation to Resolution one. |
|  | **PRESENTATION OF HONORARY MEMBERSHIP TO ALISTAIR COCKBURN**  The President said that it gave him great pleasure to commence the meeting with a presentation of honorary membership to Alistair Cockburn. The President was delighted that Alistair’s wife Elizabeth, son Duncan and daughter Fiona were all present for this presentation.  The President said that honorary membership of the Society is not given lightly. The Council has only granted honorary membership to 16 individuals in its 70-year history. The President was delighted to add to that distinguished roll call – the name of Alistair Cockburn.  The President gave a brief outline of Alistair’s legal career. Alistair was first admitted as a solicitor on 1 August 1972. He became a partner in 1974 with the firm of Tilson MacLaurin, which became Maxwell MacLaurin and then Morison.  Throughout his legal career Alistair has worked as a litigation solicitor, specialising in employment law, and representing amongst others his fellow solicitors. Alistair became a Law Society of Scotland accredited specialist in employment law in 1993. He also acted as clerk in various arbitration procedures. He was the senior partner in Morison Solicitors before his retirement in 2016. In addition to his work as a solicitor, Alistair took on various public service roles. He was for a period convener of the Sheriff Court House Committee for the Royal Faculty of Procurators in Glasgow. He was also a member of the Glasgow North Argyll Legal Aid Committee.  However, it is for his work with the Scottish Solicitors’ Discipline Tribunal that Alistair gained an unrivalled reputation. In 1998, Alistair became a member of the Tribunal. He was appointed the Vice Chair of the Tribunal in 2003 and became Chair in 2005. He served continuously as Chair of the Tribunal from 2005 to 2016. He served again as Vice Chair from 2016 to 2018 in order to assist the new Chair. It is especially for this distinguished service for the public good on the Tribunal for 20 years, that the Society decided to award Alistair honorary membership.  During Alistair’s tenure as both a member and Chair of the Tribunal, he consistently promoted the Tribunal’s objectives of protecting the public from harm and upholding the reputation of the profession. Alistair was, and remains convinced that being part of the Scottish Solicitor profession means adhering to the highest standards set by it.  As a consequence, his service on the Tribunal has had a major impact on the profession and the public good. Alistair was instrumental in redrafting the Tribunal Rules in 2005 and 2008. He presided over the establishment of the Tribunal’s website and the electronic publication of the Tribunal’s decisions. He also significantly contributed to the modernisation of the administration of the Tribunal and importantly, the maintenance of its independence from the Society through the incorporation of SSDT Administration Limited. He served as a Director of that company for two years before his retirement from the Tribunal in 2018.  In conclusion, for over 47 years as a solicitor and 20 years as a member of the Tribunal, public service has been a striking feature of Alistair’s career.  The President presented Alistair with his honorary membership of the Society.  The meeting warmly acknowledged Alistair’s contribution to the profession and the public.  Alistair in his reply said that he was truly honoured to receive honorary membership of the Society especially in its 70th year. He was humbled by the Council wishing to mark his service to the Tribunal. He acknowledged the support he had received when becoming a Tribunal member from former society Presidents Philip Dry and Michael Scanlon. Alistair also recognised the sacrifice made by his fellow partners in allowing him to serve on the Tribunal. He also acknowledged the great support he had received from all staff at the Tribunal especially the then clerk Judith Lea.  Alistair concluded his appreciation by saying that his membership of the Tribunal had enhanced his legal career. He took great pride as Chairman of the Tribunal of being a guardian for the ethics of the profession and thereby maintaining public confidence in the profession. |

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|  | **PRESENTATION OF HONORARY MEMBERSHIP TO SHERIFF BRIAN KEARNEY**  The President said that it gave him equal pleasure to make the second presentation of honorary membership of the Society at today’s meeting.  The second recipient of honorary membership is Sheriff Brian Kearney. Very regrettably, Brian is unable to attend today’s meeting as he is recovering from surgery. The President said that he was delighted that his son Paul, who is an Advocate Depute could accept the honorary membership on behalf of his father.  The President provided the meeting with a summary of Brian’s distinguished legal career. Brian was nominated by many individuals across the spectrum of the legal profession. His nominees included the Sheriffs and Summary Sheriffs of Glasgow Sheriff Court, members of the Glasgow Bar Association, Family Law Practitioners and members of the Bar.  It was said that the law had not been a profession for Brian – it had been his life’s work.  Brian was admitted as a solicitor on 14 November 1960 and became a partner in the firm of Biggert Lumsden & Co in 1965. In 1974 he was appointed Sheriff of Strathclyde at Dumbarton. Three years later he transferred to the Sheriffdom of Glasgow and Strathkelvin where he remained for the rest of his shrieval career, laterally becoming the Senior Sheriff. He retired from the bench in 2007.  During his time in practice Brian built up a reputation as a sound and dedicated solicitor. On the bench he retained those traits and added to them the judicial virtues of courtesy and patience which were greatly appreciated by all those who appeared before him. It was always a pleasant experience to be in his Court. Off the bench he was a valued brother Sheriff who readily shared his profound knowledge of the law and practice with his colleagues whenever his advice was sought – and it often was.  Not content with simply carrying out his own shrieval duties, Brian made an outstanding contribution to the development of Child Law and Practice in Scotland, for the public good. He was a member of the Childcare Law Review Group (1990). He presided over the enquiry into Childcare Policies in Fife (1992). The admiration of the profession for his work led to his appointment as an Honorary President of the Family Law Association.  His passion and enthusiasm for the law as it affected families and in particular children led him to write a number of publications many of which are referred to regularly in Courts throughout Scotland. These publications include *Children’s Hearings and the Sheriff Court* (1987 and 2000); *The Scottish Children’s Hearing System in Action* (2007); *The Scottish Family Law Service and annotated statutes – The Children’s Hearings (Scotland) Act 2011* (2017).  Brian has resolutely pursued excellence in the law and sought to develop the training of solicitors at all levels of the profession, from students involving mock trials at Glasgow Sheriff Court to becoming a founding member of the Judicial Studies Committee (now the Judicial Institute) – the body responsible for providing judicial training.  Brian remains involved, notwithstanding his retirement, in educating and training solicitors through The Royal Faculty of Procurators in Glasgow. The President said that it was a fitting celebration of Brian’s passion, his enthusiasm, his dedication, his hard work and his contribution to Scottish society that he had been awarded honorary membership by Council.  The President presented the honorary membership to Brian’s son – Paul Kearney.  Paul Kearney read the speech which his father would have given at this meeting. The speech was as follows-  “Mr President, Members of Council, ladies and gentleman. First of all I would like to say how honoured I feel at being granted this honorary membership. It is a very special distinction to be so recognised by the members of one’s own profession. I find it gratifying, if somewhat surprising, to be so honoured for doing what I found so satisfying and enjoyable. While acknowledging of course, that whatever I have achieved has required some devotion and hard work on my part, I must tell you how much is attributable to good luck. I sometimes think that my life has been dogged by good fortune.  An early stroke of luck was my apprenticeship. I knew I wanted to be a Court Lawyer but, having no family or other connections in law, I did not know how to go about this. However, a fellow student in my MA course who had gone into law suggested that I try the firm he was with – Maclay Murray and Spens. I applied and, after a 20 minute interview with Mr David Murray I was, by letter in the next day’s post, offered an apprenticeship at £25 for the first year, £50 for the second year and £75 for the third year. In these days Maclays was one of the largest firms in Scotland, having fully 10 partners (one of who, as you know, was our second President, Mr Ralph Risk CBE, MC and Bar). I received a splendid, well-balanced training, in the course of which I gathered that Biggert Lumsden was another large and well respected firm with a busy Court Department and when they advertised for a Procurator I applied and, this time after two interviews, lasting in all about 30 minutes, by Mr A Findley McFadzean and Mr Hugh Morton (later Lord Morton of Shuna), was offered by the job of Procurator. The salary was £750 per year, which was a shade over par for the course then – which shows how the value of money has changed.  My time at Biggert Lumsden was interesting and productive. I will not bore you with a full account of this, but cannot resist telling you of one incident which illustrates the ethos which prevailed. I had been made a partner (along with Alistair Jeffrey) in 1965, and three years later we had a special partners’ meeting to revise the division of profits following the departure of two seniors. It emerged that there was a “stray” 1% which was due to the then senior partner, Mr William A Cook (also a Society President). Mr Cook told us, having no children, he did not need this and proposed that, rather than going through the intricate process of dividing this proportionally amongst all the partners, this should be divided equally between Alistair and myself, who needed it most! To this the others agreed without difficulty! I am not sure this would happen nowadays.  I enjoyed my work as a Court Solicitor, and thought it would be satisfying to decide cases rather than argue them and intimated this, as was the practice in these days, to the Crown Agent. In early 1974 I received a surprise visit from Mr Jimmy Sutherland, then the Society’s President, who asked me if I wished to become one of the newly “temporary” Sheriff’s, and I agreed. After two further 25 minute interviews and three days sitting as a temporary Sheriff, I was appointed as a full-time Sheriff. I only mention these matters to point the contrast with the position nowadays.  I found my time on the bench most satisfying and, after some years, I had the idea of writing a book based on my experiences as a Court Practitioner. Once again my luck held. I got encouragement from Kenneth Pritchard OBE, our secretary for some 20 years and now an honorary member, and wrote my first book, *“An Introduction to Civil Procedure in the Sheriff Court”* which the Society published in 1982. I then developed an interest in Child Law and wrote the first textbook on the *Law and Practice of Children’s Hearings*, which resulted in me being invited to various conferences and training sessions with panel members and others. I thereby had the privilege of meeting with some of the many people who gave up their time in trying to ensure that children who, by being offended against were offending, show that they need special measures, receive the treatment which best promotes their interests.  Once again, Mr President, I thank the Society for bestowing on me this great honour. I understand this is the Society’s platinum anniversary. I wish it well for the next 70 years.” |

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|  | **PRACTISING CERTIFICATE FEE FOR 2019/2020 – RESOLUTION NUMBER ONE**  The meeting noted that there was one Resolution of the agenda papers which was –  “That, as from 1 November 2019, the annual subscription payable by each member of the Society holding a Practising Certificate will be £575”.  In the absence of the Treasurer (Graham Watson), the presentation of this Resolution was given by Derek Somerville, Interim Executive Director of Finance and Operations.  Mr Somerville said that the proposal is that the Practising Certificate Fee for 2019/2020 is £575. This is an increase of £10 (1.7%) from the current year fee of £565.  By way of background, the Practising Certificate Fee was held at £550 from 2011 to 2018, with only an inflationary increase of 2.7% in the current year to £565.  The Society’s Finance Sub-Committee, Board and Council have all approved the budget for 2019/2020 which has resulted in this proposed Practising Certificate fee of £575.  The Council has already set the statutory retention fee of £105 for next year. The current statutory retention fee is £100. All members holding a Practising Certificate also pay the statutory retention fee.  The Society as a non-profit making organisation seeks to have a balanced budget. The budget for 2019/2020 is based on a total income of £11.9 million and expenditure of £11.9 million resulting in an overall breakeven position. The main areas of expenditure for the next financial year are – 55% on employment costs, 9% on property costs and 36% on general operating costs.  The proposed increase in the fee for next year will be used to maintain the Society’s strategic and statutory role as both the regulator and representative body for all Scottish Solicitors.  Specific projects which the Society will pursue during 2019/2020 include – the continuing legal services review, streamlining of the Society’s complaint system, financial compliance reform, extensive membership engagement and all the statutory duties under the Solicitors (Scotland) Act 1980.  There were no questions on the proposed Practising Certificate Fee of £575 for 2019/2020.  Mr Allen proposed Resolution One which was seconded by Mr Read. Mr Etherington moved the direct negative.  By a show of hands in the room there were 20 votes in favour of the Resolution, no votes against and one abstention. The total voting for Resolution number one was (taking account of the advanced votes) 93 votes in favour, 42 votes against and 5 abstentions.  The meeting approved Resolution One. |

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|  | **Master Policy Profit Share Agreement for Insurance Years 2014/2015, 2015/2016 and 2016/2017 – Topic for Information**  The President invited Mr Etherington, Chairman of the Insurance Committee to speak on this topic.  Mr Etherington said that the Insurance Committee and the Council had agreed in June on how the anticipated profit share/dividend arising from insurance years 2014/2015, 2015/2016 and 2016/2017 should be used. The Committee and Council agreed, given the collective and collegiate nature of the Master Policy, that it was essential that members were advised that this general meeting as to how this profit share/dividend is both calculated and used.  Mr Etherington made the following principal points in his outline of how the profit share/dividend will be calculated and used.   * The Master Policy is a single compulsory collective professional indemnity insurance scheme for all private practices of Scottish Solicitors. The Master Policy will enter its 42nd insurance year in 2019/2020. The next insurance year will be the third year of the current three year master policy deal. The deal was put in place by the Committee on behalf of all private practices with the insurance market. The Committee works very closely with Lockton, as insurance brokers to the Master Policy. The lead insurers are RSA. The global premium for 2019/2020 is £16 million. * The Committee for the three insurance years from 2014 to 2017 negotiated a profit share/dividend arrangement. The essence of this profit share is that if the loss ratio in any of these three years is less than 75%, then the Society will receive a profit share. This profit share can be seen as a windfall dividend. * The loss ratio is calculated by dividing the value of the total claims paid and reserves made, by the value of the global premium – expressed as a percentage. * It is anticipated that this profit share will be triggered when it is first calculated for insurance year 2014/2015 on 31 October 2019. It is anticipated that this profit share could be in excess of £2 million. The current figure for this profit share is £2,159,917.30. This figure could change when it is formally calculated for 31 October 2019. * The first calculation of the profit share will be due by the end of January 2020 from all insurers. The first distribution will be due by Spring 2020. There will then be a recalculation in November 2020 and annually thereafter until 2024. * These reconciliations from 2020 to 2024 are required to both measure the financial security of the insurers and any movement in the profit share. * There could be movements in the profit share as a typical tail of any completed insurance year is 10 years. For example, insurance year 2014/2015 is unlikely to close as a completed year until November 2024. There will be claims which have been reserved as set figures for 2014/2015 which will vary both up and down over the course of the next five years to November 2024. * The Committee and Council also anticipate that the profit share/dividend will be triggered in insurance years 2015/2016 and 2016/2017. * The Committee and the Council have agreed that the profit share/dividend is to be used for the overall good and benefit of all insured practices as long as the Master Policy is in operation. * The Master Policy is built on collegiate principles. These collegiate principles have insured the Master Policy’s universal support over the course of its 41 years. * The Committee and the Council have agreed that the profit share/dividend from these insurance years 2014 to 2017 be used for the enhancement of all insured practices in future insurance years. These benefits will accrue following the completion of the current three-year insurance deal which runs to 31 October 2020. The profit share will be used to reduce future global premiums. The Committee and Council have agreed that this principle is the most fair and equitable. This principle also reflects a previous practice under the Master Policy in the past two decades. In these previous two decades where the loss ratio was substantially less than 100%, all such benefits were used for the benefit of all insured practices and subsequent insurance years.   There was one question on the Master Policy profit share proposal from Ms Murray. She asked what would be the impact on an individual practice if the profit share for 2014/2015 was £2 million? Mr Gray of Lockton advised that if the global premium was £20 million and the profit share was £2 million then the per principal charge would reduce from £5292 to £5100.  There were no other questions on Mr Etherington’s presentation. |

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|  | **Draft Practice Rules for Discussion**  The President invited Katie Hay, Head of International to speak to the Draft Practice Rules which the Society needs to put in place due to the United Kingdom’s scheduled exit from the European Union.  Ms Hay said that Draft Practice Rules are presented to a General Meeting for Members. Draft Practice Rules are now made by the Regulatory Committee. The Regulatory Committee does take into account comments made on any Draft Practice Rules by members at any General Meeting.  The subject matter of these Draft Practice Rules is somewhat complex. The United Kingdom’s exit from the European Union will result in a certain number of changes to the Society’s existing Practice Rules. The two practice rule area where changes are required are –   * Registered European Lawyers - The UK Government has put in place secondary legislation to take effect on exit day, which will revoke the Lawyers Directive (Establishment and Services in Scotland). A revocation of these regulations is subject to transitional and savings provisions. In short, what this means is that certain of the Society’s Registered European Lawyers Practice Rules will remain in force, but require to be amended to reflect the transitional arrangements for EU and Swiss Lawyers. * Incidental Financial Business (IFB) - Secondary legislation has also been prepared by the UK Government to take effect on exit day to make amendments to address deficiencies in retained EU Law specifically relating to the Insurance Distribution Directive. These Practice Rule amendments are again required due to the United Kingdom’s scheduled exit from the EU. This secondary legislation requires the appropriate changes to the Society’s Rules on incidental and financial business.   The meeting was advised that the Society is still in discussions with the Financial Conduct Authority on changes to the IFB Rules. It may be necessary to convene a further Special General Meeting before the end of October if the FCA comes back to the Society with substantial changes to the draft Practice Rules on IFB presented to this meeting.  There were no questions on the Draft Practice Rules. |
|  | **Close of Meeting**  The President concluded the meeting by thanking everyone who had attended. The President also thanked everyone at the Society who had been involved in organising today’s meeting.  There being no other business the meeting closed at 10:15am. |