

**MINUTE OF A MEETING OF THE MEMBERS OF THE SCOTTISH LEGAL COMPLAINTS  
COMMISSION: 11.00 AM TUESDAY 20<sup>TH</sup> MARCH 2012  
Venue: The Stamp Office, 10 – 14 Waterloo Place, Edinburgh, EH1 3EG**

**PRESENT:**

**LAY:**

Jane Irvine (Chair)  
Siraj Khan  
Ian Gibson  
Samantha Jones  
Fiona Smith

**LAWYER:**

George Clark  
Ian Leitch

**APOLOGIES:**

Maurice O'Carroll  
Iain McGrory

**In attendance:**

Rosemary Agnew (CEO)  
[REDACTED] (Gateway Team Manager) (part of meeting)  
[REDACTED] Cook (Case Investigations Manager)  
[REDACTED] (Mediation Manager)  
[REDACTED] (MA) (minutes)

**Abbreviations used:**

LSS – Law Society of Scotland  
SGvt – Scottish Government  
RPBs – Relevant Professional Bodies  
SMT – Senior Management Team  
FVTWM – Frivolous, vexatious, totally without merit  
CIM – Case Investigations Manager  
GWTM – Gateway Team Manager  
F&CSM – Finance and Corporate Services Manager  
DC – Determination Committee  
SCCRC – Scottish Criminal Cases Review Commission.

**1. MINUTES, MATTERS ARISING AND BOARD ACTIONS UPDATE**

- 1.1 The minutes from the February 2012 meeting were approved.
- 1.2 The Remuneration Committee Chair stated that she would set a date for the Remuneration Committee meeting once the paper detailing the interim acting up arrangements and payments was ready.

Action	target	actual	Comment / update
ACTION: FS and CEO to set date for Remuneration Committee meeting.	asap		

- 1.3 The Chair and CEO provided brief updates on the Board Actions register and it was noted that several of the items would be covered within today's agenda. In particular the Chair reconfirmed that the Action point concerning Quality assurance measures for Board Member work had been completed and these measures would comprise a



reliance on the clerking team to promote consistency and provision of statistics monthly on member workloads and timescales to the Chair. In addition both the Chair & Vice Chair had compiled a note of outstanding actions from Discussion Days in December 2011.

## 2. GOVERNANCE

### 2.1 Commissioners' Payments and Reimbursement of Expenses Scheme:

Members noted a conflict of interest. The key changes to the policy are as follows:

- a statement has been added to reflect the guidance contained in Public Sector Pay Policy for Senior Appointments in respect of diversity;
- time will be recorded in either days (7 hours) or as the actual number of hours spent on SLCC business;
- Travel time spent travelling to and from meetings shall be recorded as actual hours, but reimbursed at 50% of the hourly rate, except in those instances where Members are able to utilise travel time to prepare for meetings;
- Detailed guidance on current subsistence rates has been added as an appendix.

2.2 The Board approved the policy. The Board also agreed that case numbers would not be detailed on the claim forms when published to ensure data protection.

Action	target	actual	Comment / update
ACTION: Secretariat to amend Members' claim form to allow for claims in hours as well as days and show travel time.	asap		

2.3 **Operational Plan:** The SMT presented a revised operational plan in light of the departure of the CEO and the need to cover interim arrangements with reduced resources. The SMT proposed changes to some timescales and sought assurance from the Board in relation to future workloads and asked the Board to note and approve the proposed changes.

2.4 The CEO assured the Board that the SMT had been realistic in the reviewing of the Operational Plan and that the movement of some timescales did not have any budget implications. The Board reminded the SMT that at the last Board meeting they had asked the CIM for assurance there would be no operational slippage during the proposed interim arrangements and he had confirmed there would be none. The CIM stated it was partly due to items within the operational plan having already shifted from the start of this calendar year, and that it was only items that were not critical where timescales were being moved back.

2.5 The Board confirmed acceptance of many changes and noted appropriate items had been moved back.

2.6 However the Board expressed concern that the Communications strategy remained outstanding and asked what progress had been made on the decision to appoint someone external to assist with the communications strategy. The CEO confirmed that the Stakeholder Analysis was almost complete and reported that the other communication work was ongoing. The CEO also confirmed that she and the Information Officer had been identifying exactly where resources are needed, and identifying a suitable external provider. The CEO also stated that priority had been



given to the procurement and implementation of the new IT system which had been added to the Operational Plan at a later stage.

- 2.7 The Board noted with concern that this was the third time communication strategy work had been deferred, and that it included issuing Section 40 guidance. The Board stated they did not wish to see a further delay. The Board asked that the CEO provide a short paper detailing the Communication work which is in progress and the outcomes of this work plus the Stakeholder Analysis in time for discussion at their offsite meeting at the start of April. The CEO agreed but urged the Board to agree to the movement of timescales in relation to this work as the Management Team are currently working at capacity.

Action	target	actual	Comment / update
ACTION: CEO to provide short report on current communications work, detailing the outcomes, plus the Stakeholder Analysis paper to the Board for their off-site meeting in April	End of March		

### 3. CLERK TEAM RESOURCES

- 3.1 The Chair acknowledged the communication from the SMT regarding the preferred process for identifying issues and the best way forward to address these and she stated how important it is to the Board to have a full discussion regarding the current Clerking resource situation. The CIM confirmed that the Chair's observations on ways in which clerking could be enhanced were noted. The CIM also stated that the SMT had discussed the Board's concerns and the proposal which had been provided by an external consultant. He stated that of the issues mentioned by the Board so far, these had not previously been raised with the Clerks at any point as performance issues. The Board assured the SMT that there were no issues with performance, however they felt there was no resource for Clerks to be able to provide the guidance and information regularly required by Members to aid consistency of decision making and procedure.
- 3.2 The CEO reminded the Board that they had not yet seen the Clerk's team at full capacity as there had been an unusually busy period in December due to extra Board meetings and Determination Committees to accommodate the old Board leaving, and that due to annual leave the Clerk's capacity had been halved in January and February. The Board stated they felt there were still leadership issues, and observed that a key team member was shortly to leave. The Board also stated that they required more control over their matters which they felt they did not have due to the lack of a comprehensive Secretariat function which should provide all requested information to them.
- 3.3 Following discussion it was agreed that there was a need to move the scoping exercise forward quickly. It was agreed that Wildcat One who had provided a proposal for two stages of work would be requested to carry out stage 1 of her proposal i.e a consultation exercise with staff and Board Members. The result of the consultation would be reported at the next Board.



Action	Target	actual	Comment / update
ACTION: CIM to make the necessary arrangements to appoint an external consultant to carry out the 1 <sup>st</sup> step of the information gathering process in relation to Clerk resources and Secretariat function for the Board.	Report April Board meeting		

- 3.4 The Board acknowledged that the SMT had raised the question about the procurement relating to original brief and the CIM confirmed no tender/procurement was necessary due to the consultant's previous work for the SLCC and the reduced scope of this work.
- 3.5 The CEO confirmed she would make arrangements in the meantime to temporarily fill the capacity issue.

#### 4. COMPLAINTS UPDATE

- 4.1 **Third Party Complaints:** The Board agreed to designate the decision making power to accept third party complaints as service or hybrid to the Gateway Team Manager.
- 4.2 **Frivolous, Vexatious, Totally Without Merit:** There was a discussion over the proposal that the policy be amended to show that individual issues that have been categorised as conduct only can be rejected as FVTWM even if the remainder of the complaint is to be accepted as conduct or hybrid. This means that the SLCC will not be referring any issues to the professional bodies that are FVTWM. The new policy version was approved.
- 4.3 **Appeals Update:** The CEO provided a detailed update on the current live appeals. There was some discussion around whether there should be more Member involvement in dealing with appeals and it was agreed that this would be an agenda topic for the off-site meeting in April.
- 4.4 There was also some discussion around the consistency of applying exceptional circumstances and it was agreed that once a particular appeal had been decided at court, the judges' decision would provide more solid guidance on exceptional circumstances. The Chair requested there be a separate meeting for Members dedicated to discussing the issue with some example cases with the GWTM also present.

Action	target	actual	Comment / update
ACTION: Clerk to set a date for a meeting 2 months from now to discuss 'exceptional circumstances'.	asap		

Action	target	actual	Comment / update
ACTION: CEO to arrange for Clerks to collate a selection of exceptional circumstances cases for discussion by the Board.	For meeting (2 months' time)		



## 5. PRESENTATION BY LAW SOCIETY OF SCOTLAND'S REGULATORY COMMITTEE

- 5.1 Carole Ford, Convenor of the LSS Regulatory Committee gave a brief presentation on the Role and Remit of the Committee and the work which they have been doing to date since the formation of the committee. Their work so far includes their annual workplan and a full review of regulatory functions across all areas of the LSS.

## 6. OVERSIGHT

- 6.1 **Update on Trends Analysis:** The CIM confirmed that all information in relation to the potential conduct complaints against the various partners in the firm had been collated and updated. A meeting has been arranged with the LSS to discuss and agree the best way in which to take the complaints forward.
- 6.2 **Guarantee Fund LSS Audit Findings:** The CIM asked the Board to approve the draft audit report. There was some discussion over the findings and the best way to present these. The Board approved the paper subject to how it will be presented and asked that this be brought to the April meeting for approval.

Action	target	actual	Comment / update
ACTION: CIM to bring final paper back to the Board for full approval on presentation.	April meeting		

- 6.3 **Master Policy Proposal:** The CIM confirmed that he had met with Marsh, RSA and the LSS individually which has enabled the Oversight team to have a better idea of how they will timetable the rolling audit programme. The CIM also stated that the Financial Services Authority handle the complaints in relation to the claims and would therefore like to enter into discussions with them.

## 7. COMMUNICATIONS

- 7.1 **Inspection by Information Commissioner:** The CEO confirmed that the report had been very good in terms of how the SLCC processes requests, that there are good processes and practices in place and there was good understanding of FOI across the whole of the SLCC. The report indicated that there needs to be more development on the relationship between the publication scheme and the information provided on the website, however it was noted that the development of the website was work that was currently ongoing. The Board recorded their thanks to the Information Officer.

## 8. PRESENTATION BY THE SCOTTISH CRIMINAL CASES REVIEW COMMISSION

- 8.1 A representative from the SCCRC attended the meeting to present to the Board and staff on the role of the SCCRC. The presentation included the application and case review process, their powers of investigation, the decision procedure and High Court decisions in SCCRC cases.

**9. CEO UPDATE**

- 9.1 The Board noted the CEO report. They confirmed they were content with the level of information provided in the new Workforce Trends report, and noted the low sickness rate within the SLCC.
- 9.2 The Board approved the recommendation for the production of the Annual Report.

**10. AOB**

- 10.1 The CEO confirmed she was currently working on an update on the SLCC's position in relation to the Legal Services Act which would be on the agenda at the next Board meeting.

**11. DATE OF NEXT BOARD MEETING**

- 11.1 The next Board Meeting due to be held on Tuesday 24 April 2012 at 10.10 am at the Stamp Office 10 – 14 Waterloo Place, Edinburgh, EH1 3EG.

*Board Meeting ends 3.30 pm*