

**MINUTE OF A MEETING OF THE MEMBERS OF THE SCOTTISH LEGAL COMPLAINTS  
COMMISSION: 10.15 AM TUESDAY 26<sup>th</sup> July 2016**

**Venue: The Stamp Office, 10 – 14 Waterloo Place, Edinburgh, EH1 3EG**

**PRESENT:**

**LAY:**

Bill Brackenridge (Chair)  
Ian Gibson  
Emma Hutton  
Michelle Hynd  
Sam Jones

**LAWYER:**

George Clark  
Ian Leitch  
Amanda Pringle

**Guests in attendance:**

██████████ (Observing the Meeting)  
Carol Brennan (Chair of the SLCC Consumer Panel, giving a short presentation)

**In attendance:**

John Ferrie (F&CSM) (Items 1-23) ██████████ (CIM2) (items 1-11)  
Keith MacConnachie (CM) (Items 1-23) Caroline Robertson (HI) (Items 1-23)  
Neil Stevenson (CEO) (Items 1-25 & 27) ██████████ (Secretariat, minutes)

**Apologies:**

Kevin Dunion, Alison Allan (HRM) and David Buchanan-Cook (HO)

**Abbreviations used:**

|  |                                      |
|--|--------------------------------------|
| F&CSM – Finance and Corporate Services Manager | CM – Clerking Manager                |
| HI – Head of Investigations                    | HO – Head of Oversight               |
| WIP – Work in Progress                         | DC – Determination Committee         |
| FMR – Financial Management Report              | LSS – Law Society of Scotland        |
| AC – Audit Committee                           | HCF – Hybrid Conduct 1 <sup>st</sup> |
| CI – Case Investigator                         | FoA – Faculty of Advocates           |
| CIM – Case Investigations Manager              | HSF – Hybrid Service 1 <sup>st</sup> |
| RPO – Relevant Professional Organisation       |                                      |

**1. Welcome**

- 1.1 The Chair welcomed everyone to the meeting, in particular the guest Observer, Ms ██████████. The Chair advised Members, that they were due to receive a short presentation and update on the recent work of the SLCC Consumer Panel from its Chair, Ms Carol Brennan.
- 1.2 The Chair confirmed that as there were no concerns to be raised in the absence of the SMT, they joined the meeting.

**2. Apologies**

- 2.1 The Chair advised that apologies had been received from Kevin Dunion, Alison Allan and David Buchanan-Cook.

**3. Declaration of Interests**

- 3.1 It was noted the standard Declarations of interest were declared by George Clark, Ian Leitch and Amanda Pringle in relation to any pecuniary interest with regards to any budget discussions.

**4. Management Information & KPIs**

4.1 **Enquiry & Eligibility** - The HI spoke to the paper presented and advised that the up to date numbers of cases still to be allocated, in Eligibility was 114 and for the first three weeks of July, we have also received 69 new complaint forms. The HI also advised that there were currently 55 cases at the Investigation stage and these files are waiting on responses to requests for practitioner files etc. Members sought clarification from the HI as to whether or not there might be a specific reason for this increase in number of complaints, ie had there been an increase in communication strategies which might be raising awareness of how to complain to the SLCC. The HI confirmed there has been a change over the last 6 months, but they were unsure as to the reasons for this. The CEO advised that they were currently receiving a 16% return rate on the survey questionnaires which are sent out at the end of all the stages of the process. Members suggested that this could be 'front-loaded', ie an additional question could be added onto the Complaint Form, to ask how they found out about our service. The SMT agreed that this would be added to the Complaint Form.

| Action  | Owner      | Due Date |
|---|------------|----------|
| CEO to ensure that the Complaint Form is revised to include a question about how Complainers found out about our service. | CEO & C&IO | ASAP     |

4.2 Members also sought clarification as to whether or not the SMT were seeing an increase in production and activity from the new CIs, now that they are all fully trained on the processes. The HI advised that not all the CIs were fully trained and there would be further impact on this due to a subsequent resignation of another CI.

4.3 **Mediation** – The HI confirmed that due to the success of the recent Skype Mediations other Mediators are agreeable to trying this process, which is good.

4.4 **Investigation** – The HI advised that work was continuing to progress and the SMT have agreed that another CI will move from considering Eligibility cases over to now considering Investigation cases, which will mean 7 CIs working on Investigations. The HI also reiterated that they will continue to maximise the use of Reporters where possible at Investigation stage. As previously noted there were currently 55 cases awaiting allocation and at year-end 42% of the cases which have not settled at Investigation, were transferred on to Determination stage. Members sought clarification as to whether or not the restricted capacity of outgoing Members would impact on the availability of future DCs, if there were to be an increase in cases being transferred later this year. The CEO confirmed that the CM had a plan in place to increase capacity at DC stage if required.

4.5 **Determination** - The CM confirmed that 14 Determination Reports were issued and it was anticipated that the 7 cases which are now greater than 6months would hopefully be issued during August. The Chair reiterated that the CM should ensure that a plan was in place for the considering of these cases for Members who were demitting office on 31 December 2016. Members suggested that whilst they were demitting office on 31 December 2016, depending on the type of cases to be considered, there might be the opportunity for them to still consider cases late October/early November and the CM was mindful of this.

4.6 **WIP** – Members noted that the figures as presented.

4.7 **Total Case Lifetime Averages** – Members noted the figures presented and the Chair noted that these were the lowest in the year for both Journey time and Work time and staff should be congratulated on this.

*10.30am as Ms Brennan arrived to give her short presentation to the Board on the SLCC Consumer Panel there was a short break in the Agenda to facilitate this presentation.*

Ms Brennan advised that the Consumer Panel had now met 6 times and it was hoped that they had scope to expand their membership over time and their terms of reference states that they will meet at least twice per year. The Consumer Panel have their own page within the SLCC website; they have been involved in specific areas of research, consultations, and participated at events. Ms Brennan had, in February this year, also given a short presentation to SLCC staff and they also proposed an annual update to discuss progress with the consumer focus. Ms Brennan also has had the opportunity to visit the Legal Services Consumer Panel, which she found very interesting, though she did acknowledge that their set up was very different to that of the SLCC. The Legal Services Consumer Panel has a budget of £200k, and from this approximately £28k was spent on research projects. Members reiterated that we are a complaints service and very different to the function of the Legal Services Board and their Consumer Panel, however, it was agreed that the CEO would, along with the HO, explore confidentiality points with the LSS, on how to potentially jointly work with the LSS to engage in research.

Members suggested that in order to strengthen the bridge between the Consumer Panel and the Board that we might have an Agenda item of the Consumer Panel Principles and also have a Board Member training on this topic. The CEO agreed that this could be part of the Policy and Planning for the next Operating Plan and it was also suggested by the Board Chair that he meet with Ms Brennan along with the CEO and HI to discuss this matter further.

The Chair thanked Ms Brennan for her informative presentation to the Board.

*11am Ms Brennan left the meeting and the Agenda resumed.*

4.8 **SMT Action Plan** – The CEO spoke to the paper presented and Members noted the position on the increase in number of complaints received still to be allocated. Members noted the paper presented and reiterated to the SMT that they should not be always planning on historical data, ie risking quality for production they should also be forecast planning. The SMT agreed and advised that quality was not being sacrificed for quantity and they might need to review the forecast.

## **5. Appeals Update**

5.1 The Chair thanked CIM2 for the revision to this paper which now includes the additional explanations to legal terminology and use of plain English which was found very helpful.

5.2 The CIM2 spoke to the paper presented and advised that there have been 3 new Appeals received since the last update, one at Determination stage and 2 on Eligibility decisions issued. The CIM2 gave Members an overview of the current status on prospects of these new appeals. Members also noted the update regarding the current ongoing Appeals.

5.3 The CIM2 advised that they were still awaiting the Court's judgement in relation to the outstanding Appeal Hearing, and as the CoS was now in recess till September it wasn't anticipated until then.

5.4 Discussion took place with regards to the pursuance and recovery of expenses from party litigants and whether or not this was recoverable or not. The CEO advised that where possible they do try to recover costs but the CoS do not always allow us to do so and as a result the practitioners will end up paying through their levies. Members suggested this information should be contained within the Annual Report.

5.5 The CIM2 reiterated that thought it might appear there have been a large number of Appeals when you compare this with the number of complaints received, along with the number of decisions issued at both Eligibility and Determination stages it is relatively low over the last few years.

5.6 The Chair sought clarification as to whether or not the pie chart data could be retained as a comparator for year-on-year statistical purposes. The CIM2 and CEO thought this would be possible.

5.7 Members thanked CIM2 for the update and explanation to the paper as presented.

## 6. Finance Report

### 6.1 FMR – 12 months to 30 June 2016

The F&CSM spoke to the FMR papers presented and advised that these figures were subject to finalisation and audit for year-end. It was noted that the Annual Subscription Levies received totalled £2,618,127 which was £46,545 more than predicted in the budget and there were still accruals to be eluded in relation to the Pension and Legal Expenses, as they were still awaiting the final Lothian Region Pension Fund Report. The F&CSM also confirmed that the reserves will make provisions for accruals for next year.

6.2 The F&CSM confirmed that the Auditors would be on site from 15 August 2016.

6.3 The F&CSM also gave an overview of the Balance Sheet figures as presented along with the FMR. Members sought clarification regarding the increase in LSS numbers received in Annual Subscription Levies. The CEO and F&CSM confirmed that whilst the LSS do factor in for an increase in number Practising Certificates issued these were even more than the LSS predicted.

## 7. Reconsider Rule on time limit

7.1 The CEO in the absence of the HO advised that unfortunately as they were still awaiting the outcome of the Court's judgement on the Appeal Hearing, we are unable to move this forward at present. The CEO reiterated that they have chased the CoS for the final decision as the SMT are very aware this will have an impact on our consumers and we need to review the impact this decision will have on our business. It was agreed that this will be an Agenda item for update at the August Performance Call.

| Action  | Owner    | Due Date       |
|---|----------|----------------|
| Update to be provided at the August Performance Call. | HO & CEO | 23 August 2016 |

## 8. Setting of Complaint Levy and Updating Policy

8.1 The CM spoke to the paper presented and explained that the Complaint Levy Policy had been amended following discussions at the May Board Meeting. The CM advised he was seeking the Board to approve these changes in Appendix 3 which will take effect on 1 September 2016. Following a discussion it was agreed that the CM would revise the wording slightly and double-check that all figures were correct and a final copy would be circulated to the Chair for approval before implementation on 1 September 2016.

| Action   | Owner | Due Date          |
|--|-------|-------------------|
| CM to ensure the Complaint Levy Policy captures all the changes to the Complaint Levy tariff and circulate a final copy to the Chair for approval, for implementation on 1 September 2016. | CM    | By 12 August 2016 |

## 9. Consistent Decision Making Update

9.1 The CM spoke to the paper presented and gave an update on his discussions with Oversight team to devise a spreadsheet 'prototype' to populate the information into a more user friendly format for both Members and staff to review. It was suggested that this be brought to a future DC for Members to trial and update the search results at a future Board Meeting.

| Action   | Owner | Due Date             |
|--|-------|----------------------|
| CM to ensure a future DC trial the search facilities of the new prototype spreadsheet on Consistent Decision Making and update the next available Board Meeting. | CM    | By 27 September 2016 |

11.40am Comfort break

11.50am Meeting resumed and CIM2 left the Meeting

**10. Quarterly Update on Operating Plan**

10.1 The CEO in the absence of the HO spoke to the paper presented. Members noted the update on projects to date. Members also suggested that where a target was exceeded we maybe should recognise this having been over achieved by using the colour 'plum or blue'.

**11. Project Updates**

11.1 The Board noted as read the paper presented by the CEO on the update progress of various projects.

**12. ABS Update**

12.1 The CEO in the absence of the HO spoke to the paper presented and advised Members there was no significant change or update since the last Board Meeting.

12.2 Members suggested that it might be beneficial for the Oversight Team to prepare a layout map in diagram format of all the 5 different processes which will include the 3 different bodies. The CEO advised that the OM was in the process of trying to map the proposed model, which was proving to be very complicated to map out, due the different connotations and scenario options which might be possible for complainers, which in turn will prove confusing for them.

12.3 The Chair advised that the new Justice Minister would be visiting in August. Members suggested that it might be beneficial to offer an overlay to show a solution. The CEO reiterated that this should still be an ongoing Board discussion for future meetings.

| Action   | Owner | Due Date |
|--|-------|----------|
| Oversight team to draft a process map capturing the 5 different processes which will include the 3 different bodies, which will assist with the explanation to both SGvt and Complainers on ABS. | HO    |          |

**13. Update on Legislative Change**

13.1 The CEO advised that we have had a few initial responses, with more detailed responses still to follow. It was noted that the Legal Services Board of England and Wales have asked to meet and the Legal Ombudsman of England and Wales have arranged a visit for September. The CEO also advised that we would be hosting a roundtable event for the Competitions & Markets Authority.

13.2 The CEO also advised that to date there had been no substantive response from the LSS.

13.3 The CEO reiterated that they had adhered to the timescales in respect of the project plan issued to stakeholders in January and the consumer journey has got so complicated that it needs addressed.

13.4 The Chair advised that he has also written to the new Dean and Vice Dean of the FoA.

**14. Draft Timetable for Review of Lease**

- 14.1 The F&CSM spoke to the paper presented and advised that the current lease expires in September 2018. Members agreed with the proposed two-stage approach, prior to the commencement of negotiations in the 2<sup>nd</sup> quarter of 2017.
- 14.2 Members enquired as to whether or not there had been any indicators from the Landlord to retain our tenancy. The F&CSM advised there were none as yet.
- 14.3 Members thanked the F&CSM for his update to the paper presented.

**15. Terms of Reference for the Audit Committee**

- 15.1 The AC Chair spoke to the paper presented and advised Members that this paper was presented for approval following amendment at the AC meeting on 26 April 2016. Members approved the suggested amendments.

**16. Consumer Panel Update**

- 16.1 The CEO in the absence of the HO spoke to the paper presented. Members confirmed their approval of the appointment of Mark Patterson as the Citizens Advice Scotland representative on the Consumer Panel.

**17. Update on Lothian Pension Scheme Liability**

- 17.1 The F&CSM advised that unfortunately they were still awaiting an update so there was no new information provided.

**18. Board Actions Registers**

- 18.1 The Chair and CEO provided Members with an update on the actions register. Members noted the updates and all cleared items had been removed from the Actions Register.

**19. Minutes of Meetings from 31 May and 28 June 2016**

- 19.1 31 May 2016  
The Minute of the Board Meeting was approved as read.
- 19.2 28 June 2016  
The Minute of the Board Meeting was approved as read.

**20. Chairman's Report**

- 20.1 Members sought clarification on recruitment document prepared by SGvt Public Appointments Team and suggested some minor wording changes. Following discussion the Chair agreed to take these forward, in particular, the various meetings preparation times and also the revised cycle of Meeting dates.

| Action  | Owner | Due Date |
|---|-------|----------|
| The Chair to provide an update to SGvt Appointments Team with the suggested Member changes. | Chair | ASAP     |

- 20.2 Members noted the other meetings undertaken by the Chair.

**21. Chief Executive's Report**

- 21.1 The CEO spoke to the paper presented and Members noted meetings undertaken. Members sought clarification on the meeting with the Chair of the LSS Complaints Sub Committee, along with [REDACTED] from the LSS. The CEO advised that this was a positive and valuable meeting.
- 21.2 The CEO also advised that Lockton would be taking over from Marsh in relation to the Master Policy and Guarantee Fund.
- 21.3 Members thanked the CEO for this update to the paper presented.

**22 AOB**

- 22.1 Members sought clarification as to whether or not the microphone quality issue had been resolved in the Boardroom and both the Chair and F&CSM advised it was still in hand for resolution (one set of tests had taken place with different microphones, and other options were being looked at).
- 22.2 No other business noted.

*12.30pm SMT left the Meeting*

**23 Approval of Chief Executive's Performance Review and Objectives for 2016/17**

- 23.1 The Chair spoke to the paper presented and Members noted that the CEO had now been in appointment for 1 year. Members agreed with the Chair's recommendation of the CEO's performance during 21 March to 30 June 2016 and were in agreement this was recorded as satisfactory.
- 23.2 Members discussed the Chair's proposed CEO's Performance Targets for the forthcoming year, up to 30 June 2017. Members agreed with the CEO's Performance Targets as noted.

The Chair thanked everyone for their contribution to the meeting today and special thanks were also recorded from our Observer, Ms [REDACTED] who found the meeting very helpful and informative.

**24 Date of Next Meeting**

- 27.1 The next **Performance Management meeting** will take place on **Tuesday 23 August 2016 at 10.15am**. There will be a **Board Development Session** on **Monday 26 September 2016**, commencing at **12noon with a sandwich lunch**, the next full **Board meeting** taking place on **Tuesday 27 September 2016 at 10.15am**; all meetings will take place in the Stamp Office 10 – 14 Waterloo Place, Edinburgh, EH1 3EG.

*12.40pm Board Meeting ends*