

**MINUTE OF A MEETING OF THE MEMBERS OF THE SCOTTISH LEGAL COMPLAINTS
COMMISSION: 10.15 AM TUESDAY 1st NOVEMBER 2016**

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

PRESENT:

LAY:

Bill Brackenridge (Chair)
Kevin Dunion (Skype)
Ian Gibson
Emma Hutton
Michelle Hynd
Sam Jones (Skype) (till 11.06am)

LAWYER:

George Clark
Ian Leitch (till 12noon)
Amanda Pringle

In attendance:

David Buchanan-Cook (HO) (Items 1-27)
Keith MacConnachie (CM) (Items 1-27)
Neil Stevenson (CEO) (Items 1-28)

John Ferrie (F&CSM) (Items 1-27)
Caroline Robertson (HI) (Items 1-27)
[REDACTED] (Administrator, minutes)

Apologies:

None

Abbreviations used:

F&CSM – Finance and Corporate Services Manager
HI – Head of Investigations
WIP – Work in Progress
FMR – Financial Management Report
AC – Audit Committee
CI – Case Investigator
CIM – Case Investigations Manager
RPO – Relevant Professional Organisation
CIO – Communications and Information Officer

CM – Clerking Manager
HO – Head of Oversight
DC – Determination Committee
LSS – Law Society of Scotland
HCF – Hybrid Conduct 1st
FoA – Faculty of Advocates
HSF – Hybrid Service 1st
SoD – Scheme of Delegation
HRM – HR Manager

1. Welcome

- 1.1 The Chair welcomed everyone to the meeting.
- 1.2 Members decided there was no requirement to hold a private Member only session out-with the presence of the SMT.

2. Apologies

- 2.1 The Chair advised that no apologies were received as everyone was in attendance.

3. Declaration of Interests

- 3.1 No other declarations of interest were made other than the standard declarations of interest declared by George Clark, Ian Leitch and Amanda Pringle in relation to any pecuniary interest with regards to any budget discussions.

4. Outcome of Anderson Strathern vs SLCC Appeal

- 4.1 It was agreed that this Item would be put to the end of the Agenda to be discussed, as the CEO and HI had met with LSS the previous evening and Board were awaiting paper from them today. It was agreed that this paper once received would be circulated.

5. Management Information & KPIs

- 5.1 **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 now 204 cases. This high number is in the main, due to a delay of a month following the CoS Appeal Decision. It was also noted that the volume of complaints show an increasing rising trend.
- 5.2 **Mediation** – The HI advised that due to the current situation on hybrid decisions they were now experiencing an increase in cases at Mediation. This is because we can now mediate on complaints where re-categorisation has returned them as pure service complaints and therefore these cases are returned to the mediation stage of the process.
- 5.3 **Investigation** – The HI advised that due to the CoS Appeal Decision, Case Investigators were re-categorising their own cases and subsequently returning them to the beginning of the Eligibility process.
- 5.4 **Determination** - The CM confirmed that 17 Determination Reports had been issued and it was anticipated that the outstanding 12 cases which were greater than 6 months were being considered on 16 November 2016. It was noted that Members were keen to avoid any hangover from demitting Members and asked CM to review the position and report back to the next Board Meeting. Members requested that this, as much as possible, be done to ensure a smooth handover to new Members. The CEO advised there were still 60 cases awaiting liaison by the LSS.
- 5.5 **WIP** – Members noted that the figures as presented.
- 5.6 **Total Case Lifetime Averages** – Members noted the figures presented.
- 5.7 Members thanked the SMT for their update to the papers presented.

Action	Owner	Due Date
CM to provide an update to the next Board Meeting on Determination case position for demitting Members.	CM	29 November 2016

6. Q1 Balance Scorecard

- 6.1 The CEO spoke to the paper and tendered apologies as this action was incomplete (due to pressures from the CoS Appeal ruling). It was noted CEO still had to confer with HI and CIO on statistics. However, the CEO was confident that an update would be provided at the next Board Meeting on 29 November 2016. .

Action	Owner	Due Date
CEO to finalise the Balance Scorecard and provide an update to the Board at the next meeting.	CEO	29 November 2016

7. Q1 Finance Report

- 7.1 **FMR – 3 months to 30 September 2016**
The F&CSM spoke to the FMR papers presented and advised these were for the first 3mths of the new Financial Year.
- 7.2 The F&CSM confirmed that the AC at their meeting on 10 October 2016 fully endorsed and ratified the final draft Accounts which will be discussed fully later in the meeting.
- 7.3 The F&CSM also gave an overview of the Balance Sheet figures as presented along with the FMR.
- 7.4 Members thanked the F&CSM for his explanation to the papers presented.

8. Q1 Operational Plan Update

- 8.1 The HO spoke to the papers presented and invited Members' opinions as to format and information contained therein. It was noted that the recent CoS Appeal Decision was having an impact on the Operating Plan. Members noted they liked the new colour format. The CEO explained there is a need to predict where we will be and whether or not we are going in the right direction.

9. Q1 HR Update

- 9.1 The Chair stated that he had met with the external HR Consultant and had agreed an action plan with them. The CEO spoke to the paper presented and advised that the HR Manager may be asked to come in and speak to future papers. Concerns were raised by Members at the figure relating to staff absence, in particular they felt it was very high and wondered if this was a typographical error or an accurate figure. Members also asked that an "Industry Norm" be sourced and presented at next quarter.
- 9.2 Members noted there was a possibility of an Employment Tribunal from a former employee.
- 9.3 Members requested that figures detailing short and long term absence be obtained.
- 9.4 Members suggested that an organisational chart would be helpful to be included with future HR reports for clarity.
- 9.5 Members noted the future planned work of the future HR function.

Action	Owner	Due Date
Comparison to be sourced regarding sickness figures and included in the Qtr2 Report.	CEO & HRM	Qtr2 Report
An Organisational Chart to be included within the next Qtr2 HR Report	HRM	Qtr2 Report
Figures regarding long and short terms absences be sourced and included in the Qtr2 Report.	HRM	Qtr2 Report

10. Q1 Customer Feedback

- 10.1 The CEO spoke to the paper presented and gave an overview of the paper and the CEO thanked the Facilities Officer for input in drafting.
- 10.2 The CEO sought opinions from Members with regards to the format and content of the paper.
- 10.3 Members sought clarification on the presentation of graphs and suggested a greater explanation of the data displayed would be useful. Members suggested the inclusion of the questions asked on the Questionnaire would also be useful together with response rates, ie how many actual responses and what percentage of the actual responses were positive/negative etc.
- 10.4 Discussion took place regarding the different type of complaints received, ie, 3rd party complaints, and trends regarding who returned feedback and how this represented dissatisfaction/satisfaction from different parties. Members also discussed whether there was a requirement to keep data on complainers. The HI advised that no data was kept on complainers as each case is treated entirely separately. The CEO advised we do have certain cases where special measures have been taken to manage more challenging complainers but we do not have a power to refuse a complaint. The HI advised that the process cannot be manipulated by this type of complainer. The CEO advised that steps are always taken to discourage certain behaviours (giving the example of the 'unacceptable actions' policy).

Action	Owner	Due Date
Include an explanation of the data contained within the feedback graphs.	CEO & FO	Qtr2 Report
Questions to be included from Questionnaire to aid the review of data.	FO	Qtr2 Report
Percentage Response Rates to be included in future feedback reports.	FO	Qtr2 Report

11. Approval of Annual Accounts

- 11.1 The F&CSM and CEO spoke to the papers presented. The F&CSM advised the version of the Annual Accounts distributed for the meeting were approved, subject to one item, relating to pension liability. It was noted a second report had now been received, which was bespoke to the organisation and this has effectively removed the existing liability in relation to the LRPF provisions previously made. The external auditors were content with the position.
- 11.2 Following discussion the Chair sought comments from Members on the Accounts. None were received and it was agreed that the Annual Accounts were approved.
- 11.3 It was noted that excellent feedback had been received on both the Internal and External Audits and the F&CSM and his team were commended in relation to these.

11.06 am Member S Jones leaves the meeting. (Skype)

12. Review of Reserves Policy

- 12.1 The F&CSM spoke to the paper presented and sought approval from Members to include a degree of flexibility with regards to our reserves. The F&CSM advised this was in line with the AC recommendation of two months expenditure be held in reserves, with the proviso that an exception clause be written into the policy to allow for exceptional circumstances for this to deviate from this amount and that any such deviation be reported to the Board. The F&CSM also advised that once the finalised risk assessment work had been carried out for the AC, an updated risk based register would be presented to the Board in early 2017.
- 12.2 The Chair requested that F&CSM keep a separate record of costs relating to the CoS Appeal Decision outcome.
- 12.3 Members approved the document.

13. Operating Plan 2017/18

- 13.1 The CM spoke to the paper presented and gave an overview of the papers presented by the SMT. The proposed plan would be the second of four, within the framework of the 2016 to 2020 strategy which had been previously approved. It was noted by Members that the paper also captures the new ideas from the joint Board/SMT Development Session. Members noted Appendix D for 2017/18 was based on this output from this session and SMT were asking the Board to consider and give direction. Members noted the recommended timetable for Appendix D which shows items at green, these are in an early draft. The SMT were tasked with developing the plan and taking the appropriate direction, in specific, the Chair was keen for the journey time to be explored and clear core functions as a priority. The CEO was tasked with identifying the top 5 priorities with the remaining items to be revisited by July 2017. Members asked that these are linked to both the Balance Scorecard and KPIs.

Action	Owner	Due Date
CEO and SMT to identify the top 5 priorities.	CEO	29 November 2016
CEO and SMT to review the draft Operating Plan for 2017/18 and provide an update to the next Board Meeting.	CEO	29 November 2016

14. Budget 2017/18 (tabled)

- 14.1 The F&CSM spoke to the papers presented and advised that the final balance sheet value is £675k and it is anticipated that the reserves will be reduced to £469k as at 30 June 2017, which is in line with the reserves policy.
- 14.2 Members noted that the recent CoS Appeal Decision will impact on this year's budget regarding resource issues on unallocated cases. Significant costs had already been incurred in rework.

- 14.3 The stance of the LSS was also driving up risk and cost significantly, and the possibility of litigation could bring large costs in 16/17 or early 17/18 which would need to be met.
- 14.4 It was noted that this was not the time to reduce the number of staff as there was a requirement to continue to provide a service to our users. It was thought an increase in the Levy would be required to remain fully resourced and keep the reserves. Consideration was also given to the increase in number of complaints received together with the CoS Appeal Decision and the impact this will have on the budget, resulting in a need to increase the Levy.
- 14.5 Members discussed in detail the proposed Assumptions in the construction of the budget and noted that the number of cases have increased year on year, currently 12% increase on last year. Members noted that both the Chair and CEO were meeting with the SGvt Justice Minister prior to the next Board Meeting, 29 November 2017 and Members agreed this would be helpful in deciding issues around the budget at the said meeting.
- 14.6 The specific assumptions proposed by the SMT were discussed in turn, and in detail. The Board agreed that each of these assumptions be used to inform the first substantive draft of the budget.
- 14.7 Members agreed that further discussion was required on potential Levy and staffing increases.

Action	Owner	Due Date
Proposed Budget 2017/18 to be reviewed at the next Board Meeting.	F&CSM & CEO	29 November 2016

15. Scottish Government Framework Agreement

- 15.1 The CEO and HI spoke to the paper presented and Members discussed the document in detail.
- 15.2 It was noted that this was a normal part of NDPB operation.
- 15.3 A range of views were expressed on the document, but it was agreed that members did not wish that this go forward to SGvt in its present format and further work and discussion was required before it did.
- 15.4 It was agreed that this document be brought back to the next Board Meeting after the CEO has reviewed the document with SGvt.

Action	Owner	Due Date
CEO to review the document with SGvt in light of discussions today and to be brought back to a future Board Meeting for further discussion by Members.	CEO	29 November 2016

*12 noon comfort break with Member I Leitch leaves meeting
12.15pm Meeting resumed*

16. Marketing Strategy

- 16.1 The HO spoke to the paper presented and gave an overview of the paper.
- 16.2 Members discussed the proposed budget for this project and suggested renaming from "Marketing Strategy" and could be replaced with "Communication Strategy" or "Engagement Strategy".
- 16.3 The Chair suggested particular Members work with HO and the Oversight team to develop this project. It was also noted that the proposed budget would be sufficient for this project. It was agreed that this would be discussed more fully at a later date.
- 16.4 It was agreed the first elements of work should be reflect in the 17/18 Operating Plan and Budget.

Action	Owner	Due Date
Members to provide the HO with assistance in drafting the Communications Strategy.	HO	

17. Website Renewal

- 17.1 The HO spoke to the paper presented and asked the Board to consider the content and recommendations. The HO advised that it was disappointing to note that our current website provider had not provided a quote.
- 17.2 Members had some discussion over reasonable costs for website renewal. Various thoughts as to what was reasonable, given what was wanted to be achieved. Members also gave consideration to the development to ensure our website was accessible for people with disabilities and compatible for tablet and phone platforms, which it currently isn't.
- 17.3 It was noted that this may not be urgent, but it was important. The strategy covered the period up to 2020, and by then our site would be badly outdated (mobile access, accessibility, etc). Planning early would allow work and costs to be phased.
- 17.4 Chair suggested particular Members to work with HO to bring this to a proposal to put to tender.
- 17.5 It was agreed the first elements of work should be reflect in the 17/18 Operating Plan and Budget.

Action	Owner	Due Date
Members to provide the HO with assistance in drafting the Website renewal.	HO	

18. Complaints Portal

- 18.1 The HO spoke to the paper presented and asked members to consider and comment.
- 18.2 It was noted the project was to encourage a focus on the customer (lawyer and complainers) experience of complaints as a single/ongoing process, rather than the current approach to information provision which focusses on the separate institutions involved.
- 18.3 Members agreed this would be a good idea in theory, although agreement from the different parties concerned might be difficult to obtain. Member suggested it might be better to have a video or guide within each of the websites which would give all the information, without the need to have collaboration to a single joint website with stakeholders. This was deemed to be a good approach and Chair suggested particular Members to work with HO to bring this to a proposal.
- 18.4 It was agreed the first elements of work should be reflect in the 17/18 Operating Plan and Budget.

Action	Owner	Due Date
Members to provide the HO with assistance in drafting the Complaints Portal.	HO	

19. Review of Risk Register

- 19.1 The CEO gave a verbal update and stated the draft was 80% complete and was awaiting Member and SMT input. This document is on track for sharing with the Audit Committee in December although had been slightly delayed due to the CoS Appeal Decision.
- 19.2 The F&CSM confirmed this will be completed in time for the next Audit Committee meeting.
- 19.3 Members were advised that the Audit Committee had reviewed the feedback from the risk workshop but also looked at wider issues. It was noted that the revised Risk Register will be broader, to reflect all the key strategic risks to the business.

20. Revision to Scheme of Delegation

- 20.1 The HI spoke to the paper presented, advising of the minor amendments.
 20.2 Members agreed and approved these.
 20.3 After discussion, it was agreed that this be linked to Framework.

Action	Owner	Due Date
Scheme of Delegation to be linked to Framework	CEO/Member	2-3 months

21. Minutes of the Audit Committee from 21 July 2016

- 21.1 The Chair of the AC spoke to the paper presented and advised that Action 38, relating to Member Expenses will be collated by F&CSM and brought the next Board Meeting.
 21.2 The Chair asked that future AC Minutes be put before the Board sooner than is presently the case. The AC Chair agreed that this would be done and that the AC Draft Minutes would be put before the Board at the next due Board Meeting, following the AC Meeting.

Action	Owner	Due Date
F&CSM to collate Member Expense analysis to be brought to the next Board Meeting.	F&CSM	29 November 2016
Draft AC Minutes to be put before the Board at earliest Board Meeting following AC Meeting.	Chair of AC	Ongoing

22. Annual Report

- 22.1 The HO spoke to the paper presented and this was discussed by the Members.
 22.2 Members agreed to several improvements. The HO advised this was still only 80% complete and that more meetings would be taking place to finalise this document.
 22.3 The Chair asked if the date of submission could be moved back and the CEO advised that not possible as there was an agreement that this would be submitted to the Scottish Government with the Annual Accounts on 21 November 2016.
 22.4 Members agreed to work through improvements with HO, with final comments submitted by Members no later than 10 November 2016.
 22.5 Following receipt of all the comments received and the document being revised, this will be circulated to Members for approval and final sign-off by the CEO.

Action	Owner	Due Date
HO to recirculate by email the draft Annual Report to Members with initial amendments	HO	4 November 2016
Members to respond to HO by email any comments/ amendments as soon as possible, but no later than 10 November 2016.	Members	10 November 2016
HO to revise and finalise Annual Report for CEO approval and sign-off.	HO	18 November 2016

23. Board Actions Registers

- 23.1 The Chair and CEO provided Members with an update on the actions register. Updates were given in particular to the following Actions:
 23.1.1 Action 146 – Delayed due to CoS Appeal Decision, SMT to decide further
 23.1.2 Action 158 – FO reviewing additional microphones for the Boardroom.
 23.1.3 Action 159 – The Chair and the CEO still to discuss.
 23.1.4 Action 167 – Update to be provided at next Board Meeting.
 23.2 All other Actions were continued or noted as complete. Members noted the updates and all cleared items had been removed from the Actions Register.

24. Minutes of Meetings from 27 September and 11 October 2016

24.1 27 September 2016

The Minute of the Board Meeting was approved as read the Minutes subject to a small typographical change being made at point 15.2 deletion of 'ACTION POINT'.

19.2 11 October 2016 (Extra Meeting by Conference Call)

The Minute of the Board Meeting by Conference Call was approved as read.

25. Chairman's Report

25.1 Members noted the meetings undertaken by the Chair.

26. Dates of Next Meetings

26.1 Members noted the dates of future Board Meetings and Development Sessions as listed.

26.2 There will be a **Board Development Session on Monday 28 November 2016**, commencing at **2.00pm** with training provided by an external trainer. A dinner for demitting Members will take place that evening. The next full **Board meeting** taking place on **Tuesday 29 November 2016 at 10.15am**; all meetings will take place in the Stamp Office 10 – 14 Waterloo Place, Edinburgh, EH1 3EG.

27. AOB

27.1 No other business noted.

12.58pm – Break for Lunch

1.10pm – Meeting reconvened

28. Anderson Strathern v SLCC

28.1 The Chair issued a special thanks to both the CEO and HI for their work on this presentation.

28.2 Both the CEO and HI summarised the current position via the slideshow presentation. It was noted that all complaints where the SLCC was in control were now progressing well.

28.3 The paper received that morning from LSS was then provided to each member, as were duplicate copies of the papers from the Board Meeting of 11 October, including the legal advice the SLCC had taken on 'Special Cases', which had considered a similar proposal to the one raised in the new paper from LSS. Finally, a briefing paper was shared which had been prepared overnight, based on the meeting with LSS, which also noted further legal advice taken by telephone.

28.4 Members and SMT then discussed and considered in detail the incoming documentation received from LSS

28.5 The Board noted the proposal, but agreed that the decision of 11 October to decline being involved in a 'Special Case' should remain. Indeed, since that time the offer was less relevant as even more work had been done to implement the SLCC's own solution to the issues.

28.6 The Board made a decision to instruct our legal advisors, with a view to them meeting with the LSS legal team to attempt an agreement on the way forward. HI to instruct our legal advisors immediately.

Action	Owner	Due Date
CEO and HI to ensure that our legal advisors are instructed with a view to meeting with the LSS legal advisors to resolve this matter.	CEO & HI	ASAP

29. Review of the Meeting

29.1 Members reviewed the meeting today.

29.2 With no other business the meeting concluded.

2.15pm Board Meeting ends

