

**MINUTE OF A MEETING OF THE MEMBERS OF THE SCOTTISH LEGAL COMPLAINTS
COMMISSION: 10.00 AM TUESDAY 24th JULY 2012**

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

PRESENT:

LAY:

Jane Irvine (Chair)
Iain McGrory
Fiona Smith
Sam Jones
Siraj Khan
Ian Gibson

LAWYER:

George Clark
Ian Leitch
Maurice O'Carroll

In attendance:

Matthew Vickers (CEO)
[redacted] (TM)
[redacted] (CIM) (for part of meeting)
[redacted] (IO) (for part of meeting)
[redacted] (MM) (for part of meeting)
[redacted] (minutes)

Abbreviations used:

LSS – Law Society of Scotland
SGvnt – Scottish Government
RPOs – Relevant Professional Organisations
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
IO – Information Officer
OI – Oversight Investigator
OA – Oversight Auditor
MM – Mediation Manager
OCPAS – Office of the Commissioner for Public Appointments in Scotland

1. WELCOME, APOLOGIES AND DECLARATION OF INTERESTS

- 1.1 No apologies.
- 1.2 No conflicts of interest were declared.
- 1.3 Prior to the meeting commencing the Chair stated that the Clerking Resource paper was now deferred until September as there was more work to be done on this, and that the CEO Update had been provided yesterday at the Board Strategy Day.

2. MINUTES, MATTERS ARISING AND BOARD ACTIONS UPDATE

- 2.1 The Chair ran through the minutes of 19th June 2012 and these were approved subject to the following points:

- 2.1.1 An action point requires to be added in at 3.2.3 to reflect that the CEO is to arrange for additional advice note from AS in relation to the wording of Sections 53(1) and 36(1).
- 2.1.2 An amendment to the abbreviations used for Scottish Government within the document was required.
- 2.2 **Board Actions Register:** The Chair requested that all items on the register which were on the agenda for discussion at each Board meeting should be shaded to ease discussion at the Board.
- 2.2.1 The following new actions and matters arising were noted:
3. & 4. These actions were now merged and joint with CEO/CIM and the timetable to be brought back to the September Board meeting.
6. It was agreed that this item would be deferred until the August Board Discussion day to allow a paper to be presented to the September Board meeting. FS and SJ offered to share knowledge and input if required with the CEO.
9. This action was now joint between the CEO and FS. There was a short discussion around objectives for the CEO and how these should fall from the strategic objectives, however as the review of these is not yet complete it was agreed that the CEO would be issued with a set of objectives in the meantime which covered the Board's/SLCC's short-term goals.

Action	Owner	Due Date
Provide CEO objectives to Remuneration Committee for approval.	Chair	ASAP

13. It was noted that the Clerk had met with the Oversight Investigator with regard to a process for immediate feedback of potential Oversight issues from Determination Committee to the OI. However, the Board asked that the process be brought to the Board day in August for a full discussion and an update on how this is progressing.

Action	Owner	Due Date
Process for information/feedback to be drafted for Board and update on information being passed from Det Com to Oversight Team	Clerk/OI	August Discussion Day

16. The Chair updated that there had been an agreement for the SLCC to form a Working Party including the LSS and FoA and consumer representatives hopefully with Justice Committee back up to discuss and establish proposed changes to the Act. Full membership of the Working Party was yet to be agreed.
18. IL reported that he had not yet spoken with anyone at Parliament regarding the launch of the Annual Report however, SJ stated she would speak with some MSPs regarding this with the Chair and agreed to report back at the next Board meeting.

20. The CEO confirmed that a team building day for staff and Members would be organised to take place in October, it might be a different format to the previous day that focussed around case studies. This was noted.
23. The Chair reported on the status of the Chair appointment following an update she had from the SGvnt Sponsor Department.

10.25 am MM joined the meeting

3. MEDIATION UPDATE

- 3.1 There was lengthy discussion around the paper and the Members noted there had been an increase of 59 mediation referrals, but year on year this only resulted in an extra 7 of these where a mediation had taken place and the MM was asked why that might be. The MM said there was random correlation between these figures as there is no reason or pattern as to why people don't want to mediate and the numbers of mediations taking place and not volumes in the process. The Board asked whether targets could be set for the number of mediations which could take place in a set amount of time; however the MM said this was not possible.
- 3.2 The Members asked further questions on costs. The MM stated that there is no mediation charge when the MM carries out a mediation, and she continues to manage costs efficiently, ie by using free rooms where possible. However, if the SLCC were unable to continue with the free use of meeting rooms then the cost would probably increase by around £200 per mediation. It was noted there was no separate cost line for mediation within the SLCC budget.
- 3.3 Again it was noted that of 290 cases being referred for mediation, 202 of these had been declined and the Board asked why this might be and what the process was for encouraging the uptake of mediation. The MM advised that she explains the process of mediation to all calls received and though initially practitioners were slow to participate now they were generally more receptive to mediation.
- 3.4 The MM stated she planned to advertise for more external mediators as there are currently only 6. The Board noted that the rate the SLCC pays mediators had not increased since 2008, however the MM confirmed there was no need to increase this rate at present.
- 3.5 There was a discussion around how perhaps parties don't know a lot about the mediation process, and perhaps some complainers struggle with the concept and that this could affect the uptake rates. The MM confirmed she was looking into the possibilities of a demonstration mediation video on the website and was pursuing the costs involved in setting this up, and Members were agreed this might be a good idea.
- 3.6 There was a discussion around whether there could be an 'opting out' system for mediation rather than 'opting in', however the MM suggested that this change in process wouldn't really sit with the ethos of mediation. The MM said that she thought complainers' expectations were managed throughout the process to and during mediation and the process was always fully explained during calls to the parties. She did state that she never challenged parties as to why they don't want to mediate as it is an independent part of the process.

- 3.7 There was some discussion over whether there could be some sort of 'fast-track' process granted if parties opted for mediation as an incentive for both parties. The MM suggested it might be useful to spend more time getting 'out there' to talk to practitioners about mediation and the benefits in terms of saving time and money by going through the full complaints process.

11.00 am MM left the meeting

- 3.8 The Board and CEO agreed that a higher uptake of mediation should be encouraged and that more data on why parties choose not to mediate would be of valuable.

Action	Owner	Due Date
MM to set up a feedback process on reasons for not taking up mediation.	MM	asap

4. CEO UPDATE

- 4.1 The Chair stated that the CEO's update had been covered at their Strategy Day. During the informal discussions yesterday the CEO set out his initial observations of the organisation which met with the view of the Board.
- 4.2 There was recognition that any changes to the organisation would need to be handled sensitively with staff involvement. The CEO agreed that staff involvement and engagement was essential to be done around this and it was agreed that this would be discussed further at the Discussion Day on 21st August.
- 4.3 Overall the paper was well received by the Board and was helpful in that it set out the need for change within the organisation. The Board recognised the need to trial other ways of working and are willing to work with the SMT and staff to move this forward.

11.30 GTWM joined the meeting

5. COMPLAINTS UPDATE

- 5.1 **Quarterly Complaints Statistics:** It was noted that the quarterly/end of year complaints statistics had been presented the previous day at the Strategic Board day.
- 5.2 **Appeals Update:** The GWTM provided an update on the current status of appeals as per the paper she provided.
- 5.3 **Appeals Management:** There was a discussion over the paper provided and it was agreed that the GWTM will continue to deal with appeals issues that arise on a daily basis such as providing instructions and ensuring compliance with deadlines. There was a brief discussion around Board input and it was agreed that IL being a legal member would continue to support the GWTM. The Board agreed it was a helpful paper and it was approved. It was also agreed that the CEO would ensure that the new Chair when appointed would be involved in the Appeal process.

Action	Owner	Due Date
MV to ensure the new Chair to be involved in the Appeal process.	CEO	January 2013

5.3.1 There followed a short discussion on how changes to process are made following Court decisions from appeals and how the Board are kept updated on these. It was thought that this type of information could be part of the proposed quarterly Clerk operational team meetings with the Members.

Action	Owner	Due Date
Include operational changes in policy/process resulting from Appeals decisions as part of the discussion on the content of the quarterly meetings with the Clerks team	Clerks/Members	asap

11.45 am CIM joined the meeting

6. OVERSIGHT

6.1 Timeline and Lessons learned following trend analysis: The CIM stated that this paper was a more formal outline of where the SLCC was currently sitting on this issue, and also reported that as a result of the SLCC's formal involvement, the conduct complaints arising from this were going to the next LSS Client Care meeting due to take place in August.

6.1.1 The Chair noted that the report did not include when the trends issues were raised at the Board and the note should be amended to include these dates and data on Board action requests.

Action	Owner	Due Date
Include dates when trends issues were raised at the Board on to the trends analysis timeframe document.	CIM	asap

6.1.2 The Board asked the CIM to make sure that appropriate reciprocal information sharing protocols were in place.

6.1.3 In relation to Ref 28 of the report the Board asked if the letter to the LSS had been sent by the former CEO and the CIM confirmed he wasn't sure and would check this.

Action	Owner	Due Date
Check letter from SLCC to LSS was drafted and sent regarding non-provision of a supplementary report	CIM/MA	asap

6.1.4 The Board stated they felt the SLCC had missed out on the opportunity to demonstrate the value of its oversight role. The CEO agreed and said that a more formal and constructive relationship with the LSS requires to be established.

Action	Owner	Due Date
Outline of a process to be taken in the instance of future trend analysis issues with firms for Board approval including how the press is approached and communication with the LSS.	CIM	September Board

Action	Owner	Due Date
Look at current arrangements in MOU/cornerstone agreement and propose a formal information-sharing process with LSS.	CIM	September Board

Action	Owner	Due Date
The CEO to meet with the LSS's CEO and discuss information-sharing protocol arrangements and feedback to the Board	CEO	Asap and September Board meeting

6.1.5 The Board then asked whether there were arrangements in place for information sharing with SLAB and the CEO confirmed that this had been discussed.

6.2 **Executive Summary of LSS Timescales Audit:** The Board noted the paper and the CIM agreed to circulate the draft audit report to the Members before the end of August.

Action	Owner	Due Date
Circulate draft LSS Timescales Audit Report to the Board Members.	CIM	Before end August

7. RULES CONSULTATION

7.1 The CEO provided a verbal update on the current status of the plan for the next Rules Consultation. It is important that any changes to our current work processes are taken into account. Work on the Rules was underway and once consultation was complete new Rules were expected to be in place by the start of 2013.

12.10 pm IO joined the meeting

8. COMMUNICATION

8.1 The Board stated it was important that the SLCC managed the expectations of what the SLCC can and can't do for complainers in the guidance that is to be published. The GWTM is to revise the wording of letters which go out at eligibility stage to explain the process and remit of the SLCC in third party cases more clearly.

Action	Owner	Due Date
Re-draft Gateway/eligibility stage letters to outline possible outcomes in third party cases more clearly.	GWTM	asap

8.2 The Board noted that in general internal communications were poor within the organisation and wondered if an internal intranet would improve these? The Chair asked that the route for communications to staff from the Board is formalised and vice-versa and the IO confirmed she would take on board the recommendations that come out of the focus group exercise following the staff survey.

Action	Owner	Due Date
Draft a proposal for a formal internal communications plan and feedback options and costs to the Board	CEO/IO	October Board

8.3 **Annual Report Update:** The IO confirmed the laying of the Annual Report would be at a reception at the Parliament and outlined thoughts on the content and layout. It was agreed a final draft would be circulated to the Board prior to approval for production and publication and the laying at Parliament before the end of November.

Action	Owner	Due Date
Full paper clarifying timescales for production, laying at Parliament, text and photos etc.	CEO/IO	September Board

12.45 pm IO left the meeting

10. AOB

- 10.1 **External Audit Plan 2012/13:** The AC Chair, IMcG asked that the Board approve the external audit plan. There was a brief discussion over whether the plan should be more tailored to the SLCC although the scale of the SLCC was recognised. The Plan was approved by the Board, and it was also agreed that the Audit Committee should review their governance document alongside a wider governance review.
- 10.2 **Strategic Risk Register:** The CEO stated that the Audit Committee had agreed to a revision of the register to be discussed at the October Audit Committee and would then go to the Board in November with the Audit Committee Update.

Meeting ended 12.55 pm

11. DATE OF NEXT BOARD MEETING

- 10.1 The next Board Meeting due to be held on Tuesday 25th September 2012 at 10.10 am at the Stamp Office 10 – 14 Waterloo Place, Edinburgh, EH1 3EG.

