

**MINUTE OF A MEETING OF THE MEMBERS OF THE SCOTTISH LEGAL COMPLAINTS  
COMMISSION: 11.00 AM MONDAY 5<sup>th</sup> JULY 2010**

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

**PRESENT:**

**LAY:**

Jane Irvine (Chairing Member)  
Linda Pollock  
Douglas Watson  
George Irving  
Ian Gordon

**LAWYER:**

David Smith  
Alan Paterson  
David Chaplin  
Margaret Scanlan

**In attendance:**

Rosemary Agnew (ACEO)  
Lorna Johnston (GTM) (part of meeting)  
Name withheld under section 38 (1)(b) of FOISA (CIM) (part of meeting)  
Name withheld under section 38 (1)(b) of FOISA (Clerk) (part of meeting)  
Name withheld under section 38 (1)(b) of FOISA (CI) (part of meeting)  
Zahida Manzoor (Legal Services Ombudsman, England) (part of meeting)  
Name withheld under section 38 (1)(b) of FOISA (minutes)  
Name withheld under section 38 (1)(b) of FOISA (observer)

**Abbreviations used:**

LSO Legal Services Ombudsman  
GTM Gateway Team Manager

**1. APOLOGIES**

No apologies.

**2. DECLARATION OF CONFLICT OF INTERESTS**

Members confirmed that there were no conflicts of interest.

**3. MINUTES & MATTERS ARISING OF 17.05.2010**

The minutes of the 17<sup>th</sup> May were agreed subject to two minor typographical changes in the 'Present' section and in point 6.10.

Name withheld under section 38 (1)(b) of FOISA ,  
Name withheld under section 38 (1)(b) of FOISA and  
Name withheld under section 38 (1)(b) of FOISA attended 10.15 am

**4. COMPLAINTS UPDATE**

**4.1 Hybrid Complaints:** The ACEO talked to the Hybrid Complaints paper and a lengthy discussion ensued. The following points were discussed and agreed:

*Zahida Manzoor arrived 10.35am*

4.2 The Board agreed that the VFTWM policy should be amended to state that when a hybrid complaint contains individual and distinct heads of complaint that individually could amount to *only* conduct, and that particular head of complaint is VFTWM, the Member should reject it and accept only the elements of the complaint that are not VFTWM. The rationale for this change to the policy is that if any part of a complaint was deemed to have merit, the whole complaint should be accepted for investigation to avoid having to refer heads of complaint that the SLCC determines from the outset have no merit to the Professional Body. The change will also ensure that parties' expectations are managed appropriately.

**Name withheld under section 38 (1)(b) of FOISA** *attended 10.50am*

4.3 The Board further agreed that if a complaint contains heads of complaint that raise issues of both conduct and service the GTM will apply judgement as to whether the complaint should be categorised as conduct or service, depending on the seriousness of the conduct issues. This should be done in consultation with the professional bodies where there is any doubt or ambiguity. If the complaint is clearly hybrid, the GTM will liaise with the professional bodies in accordance with the existing policy and serve Notices accordingly. If there is ambiguity over an element of the complaint, the GTM will stop short of accepting the complaint as hybrid and instead will serve notice on the parties accepting the complaint as the primary case type but making direct reference to the fact that for service complaints if a conduct element emerges during investigation the SLCC will notify the parties and vice versa for conduct complaints. If accepted as service complaints, the GTM will discuss the complaint with the Mediation Manager before serving notice to ensure that the correct complaint information is issued to the parties and, agreement reached that the conduct issue will be raised by the SLCC with the professional bodies at the point it is clearly an issue. The rationale behind this change is so that the SLCC can adopt a workable approach that ensures that issues are identified and addressed at the appropriate time.

40	ACTION: ACEO to arrange and authorise change to relevant complaints policies, and inform SLCC staff of changes effective from now.	DUE: By next meeting
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**Name withheld under section 38 (1)(b) of FOISA** *left 11.30am*

4.4 **Determinations:** Members stated they would like to know, out of all the complaints that go through Gateway, what proportion of those are going to Members for determination; are more or less being directed to Members than before; an average time it takes to complete a determination and subsequent information such as whether the fine has been paid or not following determination.

4.5 Members were reminded that the Clerk already holds much of this information.

41	ACTION: Clerk to arrange for requested information to be provided to Members.	DUE: By next meeting
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4.6 **Time-barred Complaints:** The Board agreed that with regard to time-barred complaints, when rejecting complaints made outside time-limits and accepting complaints within time-limits, the Gateway Team Manager will sign-off, and when accepting complaints on exceptional grounds even though outside time-limits, it will be a single Member decision.

- 4.7 Members noted the annual statistics and that there had been a slight fall in overall complaint numbers. The issues of publicity and promotion of the SLCC were raised as a possible cause. This will be discussed at a future Board meeting.

**Name withheld under section 38 (1)(b) of FOISA** attended 12.20pm

## 5. OVERSIGHT

- 5.1 **Master Policy and Guarantee Fund:** A verbal update was given which touched upon the issues of the time it was taking to obtain information, and the fact that information may never be forthcoming from Marsh as they are under no legal obligation to provide it and because of commercial sensitivity may not be able to provide it. A discussion took place on the merits of splitting the research and Members agreed to separate research in relation to Master Policy and Guarantee fund and press on with research on the Guarantee Fund.

42	ACTION: ACEO to arrange for new action plan in relation to Guarantee Fund research.	DUE: ASAP
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**Name withheld under section 38 (1)(b) of FOISA** and Alan Paterson left 12.30pm

- 5.2 **Conduct Complaints Oversight:** The ACEO talked to the paper and all Members discussed the paper.
- 5.2.1 There was some discussion on carrying out in-house audits at the Professional Bodies and that the ACEO would like SLCC investigatory staff to be involved as this would allow the Professional Bodies to develop a better relationship with our Investigators, and in turn would be a development exercise for our staff.
- 5.2.2 The level of work required for scoping work on this oversight function was discussed and what resources in terms of Case Investigators were available to commit to this work. Members agreed they would like to see work on this by the end of the second quarter of this year i.e. December 2010.

43	ACTION: ACEO and CIM to review timetable with a view to bringing work forward. A report to be given to the next Board meeting.	DUE: next Board Meeting
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1pm – Lunch

2.45pm – resume meeting, Zahida Manzoor left.

## 6. CONSULTATION

- 6.1 A paper was tabled regarding the SPSO's recently launched consultation which aims to establish principles and guidance on public sector complaints handling which will form the foundation of a complaints standards authority (CSA). The Board agreed that the SLCC should contribute to the consultation in line with the approach proposed in the paper.

**7. STAFFING AND ESTIMATED IMPACT OF END OF TRANSITIONAL ARRANGEMENTS**

- 7.1 The ACEO confirmed her recommendation that in order to meet resource requirements on a longer term basis, taking into account training times etc, that two more Case Investigators need to be recruited now.
- 7.2 The paper and recommendation was discussed at length and Members directed that no more Case Investigators will be recruited until all Case Investigators were working at a level of output appropriate and/or until the full impact of 1/10/10 is known.

*3.30 pm Douglas Watson and George Irving left the meeting.*

**8. ACEO UPDATE**

The Members noted the contents of the paper and the following additional updates/points were made:

- 8.1 **VFTWM:** It was agreed that Members, for Quality Assurance will review each others decisions at present, but are looking to implement a more robust system.

- 8.2 **Data Protection:** Information withheld under section 30 (c) of FOISA [REDACTED]

44	ACTION: Information withheld under section 30 (c) of FOISA	DUE: ASAP
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**9. STAFF GOVERNANCE UPDATE**

The contents of the update paper were noted by the Members.

*Meeting End 4pm*

***Due to time constrictions Item 10 on the agenda was addressed on Monday 12<sup>th</sup> July, along with a further additional item:***

*Apols: Alan Paterson*

**10. SCHEME OF DELEGATION**

The ACEO explained to Members that a slight change in the ACEO's scheme of delegation was required to accommodate internal audit requirements for the authorisation of the BACS payment for the SLCC Payroll. Members agreed and approved the new process which will allow the ACEO to authorise these.

45	ACTION: ACEO to update and put in place the new Scheme of Delegation	DUE: ASAP
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## 11. COMMUNICATIONS UPDATE & DRAFT ANNUAL REPORT

11.1 Members noted the contents of the update paper.

11.2 **Annual Report:** The draft annual report was discussed between Members and several steers were given to the HoC to allow her to progress with the production of the Annual Report. The HoC will report back on progress at the next Board Meeting.

## 12. DATE OF NEXT MEETING

The next Board Meeting will be held on Monday 6<sup>th</sup> September 2010, 10 am at the Stamp Office 10 – 14 Waterloo Place, Edinburgh, EH1 3EG.