

**MINUTE OF A MEETING OF THE MEMBERS OF THE SCOTTISH LEGAL COMPLAINTS  
COMMISSION: 10.00AM TUESDAY 21<sup>ST</sup> MARCH 2017  
Venue: The Stamp Office, 10 – 14 Waterloo Place, Edinburgh, EH1 3EG**

**PRESENT:**

**LAY:**

Bill Brackenridge (Chair)  
Kevin Dunion  
Sara Hesp  
Emma Hutton  
Michelle Hynd  
Sarah McLuckie

**LAWYER:**

Denise Loney  
Amanda Pringle  
Kay Springham

**Guests in attendance:**

Sandy Hastie (Partner and Legal Adviser from Harper MacLeod LLP) (Items 1-5)

**In attendance:**

David Buchanan-Cook (HO) (Items 1-26)  
[REDACTED] (CIM) (Item 10)  
Caroline Robertson (HI) (Items 1-26)  
[REDACTED] (Temporary secretariat - minutes)

John Ferrie (F&CSM) (Items 1-26)  
Keith MacConnachie (CM) (Items 1-26)  
Neil Stevenson (CEO) (Items 1-26)

**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  
SGvt – Scottish Government  
SH – Sandy Hastie, Harper MacLeod  
IMT – Investigation Management team  
ABS – Alternative Business Structures

CM – Clerking Manager  
HO – Head of Oversight  
DC – Determination Committee  
LSS – Law Society of Scotland  
HCF – Hybrid Conduct 1<sup>st</sup>  
FoA – Faculty of Advocates  
HSF – Hybrid Service 1<sup>st</sup>  
SOC – Summary of Complaint  
PC – Practising Certificates  
JR – Judicial Review

**1. Welcome**

- 1.1 The Chair welcomed everyone to the meeting, and introduced temporary secretariat [REDACTED].
- 1.2 The Chair extended special congratulations to CEO on being appointed Non-Executive Director of Advertising Standards Authority, and thanks to the Members for their quick response to his seeking approval to the appointment.

**2. Apologies**

- 2.1 The Chair advised that no apologies were necessary, as all parties were present.

**3. Declaration of Interests**

- 3.1 No other declarations of interest were made.

#### 4. Update on Eligibility Process

*The CEO noted that the session aimed to develop board members understanding in three areas around eligibility – the biggest cost and risk to the business. The three areas were 1) the performance management and efficiency work underway at eligibility, 2) the legal position in relation to eligibility and the 'stress testing' by our external legal adviser of how the process could be made more efficient within the Act, and, 3) our statistical monitoring of performance and predictions of future workload (working with our external statistical and process adviser).*

- 4.1 The HI presented on the eligibility process, for which pre-reading had been provided in the February Performance call (Item 5.1 and 5.1a). This included an operational overview and an update on action since the Eligibility Improvement Paper (September 2016)
- 4.2 Five priority themes from the five-year strategy were highlighted: build trust, promote strong relationships, delivery early resolution and redress, drive improvement and develop high performance. The HI stressed how these were linked to the eligibility process, as eligibility has the largest WIP and impact on the rest of the process, the largest cost and is the area with the highest predicted increasing workload.
- 4.3 The HI noted that there are currently 20 CIs, with 12.3 FTE working on Eligibility and 7 FTE working on Investigation. In March/April 2017, 2 FTE are expected to leave, with 2 replacing them, and a further 4 new FTE coming on board in May. By the end of May 2017, there will be 24 actual CIs, 16.3 FTE at Eligibility and 7 FTE at Investigation.
- 4.4 The HI explained that they trialled a new recruitment strategy in January 2017, doing one large recruiting session and looking ahead six months to fill upcoming gaps and needs. The benefits of this are less drain on management time and resources, and avoiding the lag time of training incoming staff after a current staff member departs on short notice, with this helping to keep production rates at a higher level.
- 4.5 A Member sought clarification as to whether incoming CIs were trained in both Eligibility and Investigation. The HI explained that while they recruited new CIs with both sets of skills, they are adopting an ethos to work to individuals' strengths, and are moving to train CIs as 'experts' in either Eligibility or Investigation, with some flexibility.
- 4.6 The HI addressed the culture aspect, explaining that they aim to work to targets and objectives, formulated on a quarterly basis but continually monitored. The HI explained that while it is about the number of cases completed, it is also about the quality of work ('right first time' at QA), and about behaviours, such as how the cases are handled. The HI also touched on other aspects of culture, including having an inclusive and informed culture; how staff were updated on developments to ensure knowledge was quickly shared aiding efficiency; instilling a cycle of continuous improvement beyond meeting targets; participation, and getting staff 'on board'; support options and where to go for help, information, or additional support for particularly stressful cases (such as buddy-ing); ongoing training and insights profiling; development over promotions, and giving staff the opportunity to develop beyond their day to day roles; and charity/social events (in terms of a public-sector appropriate ways to assist with morale in what can be a stressful role).
- 4.7 The HI spoke about performance management, highlighting the IMT weekly meetings to identify who requires further support, audits twice a year, performance management records, cross management and checking by the CIMs, and celebrating success when appropriate, as well as coaching and buddy-ing to provide support. The HI explained the probation period as the most important part of performance management and recruitment, as it provides an opportunity for both informal and formal performance management, if necessary.
- 4.8 A Member asked what the standard probationary period is; the HI confirmed it is currently 3 months.

- 4.9 The HI spoke to the Eligibility Process Improvement Paper and what action has been taken since September 2016. The HI acknowledged that the efforts to improve have been somewhat derailed by the impact of the Anderson Strathern appeal. The HI discussed SOC procedure change, which commenced in late 2016 with a brainstorming session that revealed that SOC procedure was most important in making the Eligibility stage more efficient and accurate; however, the answer remains unclear and further sessions are planned to look at further solutions. The HI addressed the ongoing reconfiguration of eligibility reports, making them more risk based and more consumer friendly. The HI also discussed Pilot 2, which trialled splitting Eligibility. There were no quantitative results that it resulted in any improvements; however, people preferred this system. Pilot 2 was interrupted by the Anderson Strathern appeal, so it will recommence shortly for further testing.
- 4.11 The HI explained that the SCI has been piloted from December 2016, and as of March 6, 2017, CIs make all eligibility decisions. There are four levels of QA, and CIs can move up the QA ladder. They are currently working on categorising and empowering people, but this is still in early stages. Regarding the SLCC Reporter Panel created for Investigation work, following the update provided to the Board in January 2017, there are currently 7 Reporters now trained in Eligibility work; however, as there are some issues of efficiency and quality of the work, this will be a back-up resource, and will continue to be monitored.
- 4.12 The HI addressed some other issues, including triage, which can be challenging; SCI piloting new roles for technical experts; future CI recruitment and the saved time and effort that could come from the experiments in recruitment earlier this year; the outcome of the Anderson Strathern appeal, and how this will impact work and raise issues; the general increased number of complaints and increased complexity of complaints, which impact work flow; and the need for fundamental legislative change.
- 4.13 The Chair thanked the HI for the very detailed report, and reminded the Board that this level of detail provided was to ensure appropriate oversight of the management of the Eligibility stage of the process and provide a clearer picture of the full situation for the upcoming 6 to 12 months.
- 4.14 Sandy Hastie of Harper MacLeod presented regarding the Eligibility process from the perspective of an external legal advisor, and as a 'sounding board' for improvement initiatives proposed by the SMT. SH explained that this has been an ongoing exercise in various different forms, looking towards radical overhaul, and that the challenge is to identify meaningful savings without compromising on accuracy. SH highlighted the two phases of the Court's approach to Eligibility, which were fundamentally different: in 2010/2011, a rejection of a lighter approach and demands that the SLCC adhere to the 2007 Act (reference to *McIntosh* case and *Kidd* case, which resulted in a series of minimum requirements for both enquiry and decision making); but more recently, a return to the emphasis on the 'sifting' function of Eligibility (and the focus on the role of the RPOs).
- 4.15 The Chair requested further clarity on this, to which SH answered that it is about identifying trends, and examining results to see how to learn from the Court's decisions and how it can inform moving forward. SH also explained that the Legal Profession and Legal Aid (Scotland) Act of 2007 was very rigid and prescriptive for the SLCC, and the amendment in 2014 served to render it even more prescriptive, although the amendment did improve some matters.
- 4.16 SH went on to explain the unconscious effects of the Court's approach to appeals, which is that the financial burden of appeals on the SLCC is perhaps not apparent to the Court, which is compounded by the fact that the Court is becoming less likely to award damages; therefore, a lost appeal incurs great financial and reputational damage.

- 4.17 The CEO clarified here that it is this which creates a 'knock-on effect' of a stark risk choice (due to the cost of Court of Session work one successful appeal is equivalent in cost to one full-time CI). SH reiterated this, and stated the importance of SLCC deterring appeals by aiming for early resolution as well as an understanding of the psychology of aggrieved parties.
- 4.18 A Member raised the question of whether it might be possible to earmark cases early as those that are likely to go to appeal, based on behaviours. The HI said 'high risk' cases are flagged to a certain point (the CM explained, but in relation to the Determination Committee stage that behaviours of parties can identify possible higher risk of appeals) but that in Eligibility, there can be very little contact with aggrieved parties so these behaviours or 'flags' are not apparent. SH advised that if there is a serious risk that people will feel dissatisfied or unheard, it is best to directly address the position of the aggrieved party in the report and explain why it was not taken into account. SH advised accuracy over thoroughness.
- 4.19 SH reiterated that as the requirements of the 2007 Act are fixed until legislative reform, the greatest risk lies in making incorrect decisions and not all cases are equal in terms of legal risk; rejected complaints are a greater risk, and therefore a priority must be the deterrence of appeals, not just successful defence of appeals.
- 4.20 The Chair requested clarification regarding why conduct cases might be higher risk for appeal. The CEO noted that the Courts continued to see a low bar for eligibility of conduct cases to ensure these could be examined by the RPO, however, lawyers also had a higher stake in appealing at eligibility to avoid a complaint being fully investigated. Finally, the RPOs were more likely to take an interest in eligibility cases around conduct, and recent behaviour showed they have the resources and will to launch appeals in this area.
- 4.21 SH stressed that reform of the Eligibility process would include re-structuring of Eligibility Determination Reports to reflect changes to the 2007 Act, more consumer-friendly language, and ensuring there was no substantive 'investigation' at the Eligibility stage. It was reiterated that this is an ongoing exercise, and that until legislative reform occurs, the goal is aggregating marginal gains in the interim.
- 4.22 A Member raised concerns about the amount of investigation occurring at the Eligibility stage, and questioned whether this was appropriate, or a possible duplication of efforts when repeated at an Investigation stage. The CEO and HI confirmed this was a constant balancing act. The only purpose of eligibility was to assess if something merits further investigation, but cases show we have some duty to clarify 'facts' asserted to make the decision and provide sufficient reasoning.
- 4.23 SH concluded by discussing the role of the Investigation Report vs the Determination Report, from an external perspective. It was noted the Investigation Report is not a statutory step prescribed in detail, and that its purpose was to achieve resolution. It could not be a 'finding of fact' because there is no statutory power to determine facts at that stage in the process, that power rests solely with the Determination Committee. The analysis is performed by the CI with the aim of achieving resolution. In terms of efficiency and operational performance reports are also developed with awareness that they will become a primary tool for the Determination Committee, but remain only one 'input' alongside the clerks report and the full papers of the case.
- 4.24 The Chair thanked SH for the presentation and explanation.
- 5. Predictive Model**
- 5.1 The F&CSM presented an overview of the entire predictive model process: how it has been created, how it is updated and monitored, the assumptions underpinning it, and what it currently suggested is ahead for the period from June 2016 to February 2018. Several trends were highlighted, including: a continuing upwards shift in incoming volume, and online submissions rising over submissions by post. It was suggested that this could be driving higher levels of submissions.

- 5.2 The Chair stated that this presents a dilemma: while it needs to be easy to file a complaint, it presents challenges for the SLCC. A key factor is not incoming volume, but what percentages of complaints prove valid or lead to some action.
- 5.3 The F&CSM continued to explain how the different breakdown of staff impacted productivity. It was noted that for Eligibility, the target is 6 cases per FTE; however, at an aggregate level this target is rarely reached (some staff exceeding, some hitting, but long-term sickness absence/mat leave/new-start training issues, meaning some will be missing). The high amount of waiting work for Eligibility will likely lessen with the addition of more CIs, however, there could be further work at the investigation stage as a result. Resolution and mediation remain the same, with little change to productivity there.
- 5.4 The Chair added that it may be less of an issue to have added work for Investigation, if mediation was becoming more of a goal.
- 5.5 A Member requested clarification of what the predictive element is based on, as it seemed very optimistic. The CEO explained that the assumptions were made based on data from previous years, calculated to include seasonal variation; however, trends could change, and therefore the predictive model could change. For example, the incoming case volumes were unprecedented. Likewise, statistical assumptions in the model (for example, the proportion of incoming complaints that will be service only, conduct only, or hybrid) are based on previous year's data but there is no empirical reason why these remain constant. The model represents a 'best guess' aided by external thinking on predictive models, and its key purpose is to promote better conversations about current and future resource needs and productivity rates. It will never be 100% accurate, and that is not its goal. The CEO noted that this was 'management data', rather than the level which would be usually brought to the Board, but was provided today to give insight into the management practices of this key part of the business.
- 5.6 The Chair stated that the strategic ambition of the Board is to get complaints through the process in six months (complaint form to final determination); the model provides information on achieving this and the resources required. The CEO explained that six months journey time is highly improbably in the 16/17, and 17/18 year. The aim there was to stabilise at 11-12 months, then allowing the Board to consider extra investment, or changes to process, to get to six months.
- 5.7 One Member raised questions about some aspects of the model. The Chair requested that the Audit Committee take ownership of a deeper exploration of the model, reporting back to the Board later in the year. This was agreed to by the Board and members of the Audit Committee.

Action	Owner	Due Date
The Audit Committee should further discuss the predictive model and the assumptions and calculations made, and should report back to the Board in due course (with at least an update at the Board meeting of May 2017).	CEO / FCSM	Monday 24 April 2017 – Audit Committee Tuesday 31 May 2017 – update to Board

*11am comfort break SH left the meeting  
11.10am meeting resumed*

## 6. Outcome of the Operating Plan and Budget 17/18 Consultation

- 6.1 The Chair confirmed that all Members of the Board had had sufficient time to read the consultation responses.
- 6.2 The Board noted the papers presented (a summary of responses, and the full-text of each response), which had been distributed the day after the consultation closed (Monday 13<sup>th</sup> March).

- 6.3 The Chair thanked the executive for additional financial information he had requested was made available to the board, including financial projections on different approaches to the levy.
- 6.4 The Board asked for assurance that our statutory consultation duties had been met. The CEO confirmed that all the named statutory consultees had been contacted well in advance with the consultation timetable, and that all had been sent copies of the consultation. The consultation had been covered in the legal and mainstream media. All requirements had been met.
- 6.5 The Board noted that four formal responses and two informal responses (one from an individual solicitor, and one from a complainer which was received after the deadline) had been received.
- 6.6 The Chair suggested each response was considered in turn. With general themes then identified, and finally a discussion of the budget itself.
- 6.7 The Law Society of Scotland – The LSS response did not indicate the number of people who had responded, nor does the Society publish the responses to their consultation. The response noted that it was considered in depth by the 'Board and Council' and frequently referred to consultation with members. The Regulatory Committee (which by statute is delegated regulatory functions) is not mentioned. This response is therefore, on the face of the letter submitted, from the LSS as a membership organisation representing solicitors.
- 6.8 The Board noted that LSS did not understand how a 12% rise could not be absorbed into budgets and seemed to suggest that ineligible complaints did not have significant costs. The Board noted the recent Journal article published on eligibility, and asked this be used as the basis for a response that the increasing number of complaints about solicitors was the key driver of cost. A point was made about public sector constraints, equally the Board noted that the General Teaching Council and Bar Standards Board has consulted on increases during the same period and that the Scottish Solicitors Discipline Tribunal had seen a 38% increase in costs. The LSS expressed concern at the use of their 18 current legal actions against the SLCC as a driver of costs. The Board noted concern at the suggestion the agreement of 'no costs to or by' meant no cost to the SLCC (which still had to pay its own costs, which were extensive). The LSS was also continuing to threaten the further 17 appeals after this one. Their position on the Judicial Review (JR) appeared confused, at the most recent meeting with LSS and their lawyers they had specifically declined to withdraw the JR awaiting the outcome of the appeal, and they had specifically refused to agree 'no costs to or by for the JR'. The Board remained of the view that the Society's litigations were a driver of cost. The position on Alternative Business Structures (ABS) was noted, but with no clarity from SGvt on timescales the Board felt this remained an uncertainty which must be factored for. The position on increasing membership numbers was noted, as was the assertion earlier in the letter that numbers could decline if fees went up. The Board felt the SLCC's reliance on the figures provided by the Society in November remained the appropriate way to budget. The Board noted that the Society continued to mention 'discretionary' spend, despite the SLCC this year clearly linking all work to statutory duties in the consultation. The Board noted that we were, as the LSS suggested, using an element of reserves to fund litigation costs.
- 6.9 The Board noted comments about the differential impact on the levy on different groups (in-house and legal aid). The Board noted different issues between the groups mentioned – in-house being a low source of complaints, but legal aid firms working in areas of law which did generate a higher level of complaints.

- 6.10 The Board felt that LSS's comments were important, and linked to a theme the SLCC had raised in its **#ReimagineRegulation** paper about the overall need of the sector to move to a more risk based approach. Whilst the LSS focussed on 'type of lawyer' the SLCC was focussing on what actually drives cost in regulation. Certain areas of law were the key drivers of costs for the SLCC – conveyancing, litigation, wills and executries, family, and criminal (78% of all cases in 2015/16). The issue was wider than just the SLCC's fees. For example, the SLCC does offer a discount to in-house members, whereas the Practising Certificate (PC) from the LSS is not reduced for in-house members.
- 6.11 The Board noted that the LSS does not publish a history of its fees charged on its website, meaning a comparative trend could not be accessed. Whilst the PC fee had been held static it was thought that increases had been made to the 'retained on the roll' and 'non-practising fees'. The Board asked that comparative data be requested.

Action	Owner	Due Date
CEO to contact the Law Society of Scotland a request historic PC, Retained on Roll and non-practising fee data, alongside GF and MP average payments.	CEO	Tuesday, 31 May 2017

- 6.12 The Board reviewed the financial projections provided which examined what holding the fee for advocates or the fee for advocates and in-house would mean for production rates of complaints reports and/or the impact of passing those costs onto private practice solicitors (which are the main source of both complaints, and the current increase in complaints). The Board felt that a 'knee jerk' reaction to this issue was not appropriate, when there were only a matter of a couple of weeks to finalise the budget. A more strategic conversation in the sector was appropriate, and would be valuable in setting budgets and levies in the future.
- 6.13 The Board agreed that a project should be added to the Operating Plan to liaise with the LSS and their members on three factors:
- do they have regulatory data of sufficient quality that a move could be made to more risk based charging (i.e. could they accurately identify solicitors undertaking conveyancing work, for example).
  - what would be the view of the LSS and their members on such a move – including a cost/benefit ration in terms of collection costs for a more sophisticated model?
  - how could the SLCC and the LSS work together to ensure appropriate billing in relation to all the 'costs of practice' (a consistent approach risk based approach across all fees)

Action	Owner	Due Date
CEO to add this project to the Operating Plan for the 2017/18	CEO	Tuesday, 31 May 2017

- 6.14 The Board also noted that the SLCC should suggest to the planned future review of the regulation of legal services by the SGvt that the costs of practice (regulatory and statutory membership fees) are reviewed 'in the round' to ensure they remain fit for purpose in the public interest. This would bring independent thought and scrutiny to the current model and possible future options.
- 6.15 The Faculty of Advocates – the response focussed on increasing costs for advocates, who were not a main driver of complaints. The Board noted this position, and felt it linked to wider work on the levy discussed above.
- 6.16 The Consumer Panel – the positive response was noted. The Consumer Panel continued to focus on 'customer journey' and redress which is handled quickly and fairly. The panel supported call for legislative change made by the SLCC and LSS. The work to improve awareness and communication was supported.

- 6.17 The Crown Office and Procurator Fiscal Service – the response focussed on the cost to solicitors in-house, especially in the public sector. The Board noted this position, and felt it linked to wider work on the levy discussed above.
- 6.18 Informal responses – the Board noted the two further responses received.
- 6.19 The Board considered in detail whether any of the response affected the planned budget. The Board asked for an update on numbers of incoming cases. It was noted in February the incoming cases were 108, which further suggested an ongoing and sustained increase in complaints against solicitors. The Board noted that the litigation risks remained the same as when the budget consultation was prepared. The Board noted that IT and other cost projections remained the same. The Board noted the projected end of year reserves position, which would be below our policy amount (with the policy being a guide as to what we should aim for).
- 6.20 The Board approved the budget, as consulted on, without further amendment. It was noted that the next step was to lay the budget in Scottish Parliament, which it was a requirement to do by the end of April.
- 6.21 The Board requested that a final version of the Operating Plan be brought back to the Board for discussion and approval in May (noting that this was not subject to a statutory deadline for approval, but must be ready for the start of the business year on 1<sup>st</sup> July 2017). With the budget fixed, any amendments must be within the approved budget.
- 6.22 On communications the Board delegated to the Chair and CEO the finalisation of an individual response to each of the organisations that had submitted comments, and a general press statement on the outcome of the consultation. The Board requested that individual responses thanked those organisations for their contribution, and dealt with the individual points that were raised. The press statement should be positive and forward looking, and emphasise the long-term trend (a 5% rise over five years, with discounted rates, clearly communicated as such at the time).

Action	Owner	Due Date
The consultation outcome (publication of responses, publication of our response to responses, and our press statement) should be prepared and issued.	CEO / HO	End March
The budget should be finalised and prepared for laying in Parliament.	CEO / HO	End April
Final version of the Operating Plan to be brought back to the Board for approval in May, including the additional project on a risk-based approach to the levy.	CEO	Tuesday, 31 May 2017

## 7. **Anderson Strathern vs SLCC – update on progress**

- 7.1 The CEO and HI explained that there is little change from the last meeting. However, as it is almost a month from the Hearing, the likelihood of the judgment being published shortly was increasing. Operationally, there is no change.

## 8. **Management Information**

- 8.1 The HI spoke to the paper presented.
- 8.2 WIP – The HI advised that WIP remained high. More cases are coming in than are leaving the system – February 2017 has been another very high incoming month (second highest in four years), with 108 cases incoming. The sharp upwards trend of complaints is now very clear. Many cases remain in WIP, but cannot be worked, due to the current Appeal by the LSS.
- 8.3 Total Case Lifetime Averages – The HI advised that due to increase in WIP, average journey times continue to increase.
- 8.4 Cases to be allocated – The HI advised that the number of Eligibility cases to be allocated remains high, whilst investigation cases continue to be allocated immediately when files and responses are received from solicitors.



- 8.5 **Enquiry & Eligibility** – The HI advised that the second highest amount of complaints in last four years were received in February 2017 and the trend of increased numbers of complaints received continues. The HI added that there is lower production of 61 due to two fewer Eligibility CIs – however two new ones have started in March, and three further will start in April. More cases are being received than are leaving Eligibility, so times are increasing.
- 8.6 **Mediation** – The HI advised that mediation remains even. The Board were reminded that cases needed to be service only, or for there to only be service issues remaining (conduct having been dealt with by the RPO) for a case to be eligible for mediation.
- 8.7 **Investigation** – The HI advised that this was a low production month, but they are already at eight cases for March as of 9/3/2017 (phasing issue – quarterly stats over the last three years will be presented again to the Board in May).
- 8.8 **Determination** – The CM advised that all complaints > 6 months (8 complaints) are held up at LSS as RECAT. All other complaints are being progressed at DC (longest journey time is 4.8 months).
- 8.9 Members thanked the HI and the CM for the update.
- 9. Finance Report**
- 9.1 The FCSM noted that staff costs are under budget the month due to the retirement of one of the CIs. As the new influx of CIs are employed in March and April, staff costs will rise as previously predicted.
- 9.2 Member salaries remain below budget but are up on the corresponding period last year. Out-turn has been adjusted to reflect this downward movement.
- 9.3 Indirect staff costs were under budget for the month and are cumulatively underspent. These figures include training and support for both staff and members. Expenditure on travel and recruitment remains below budget and again minor adjustments have been made to year-end figures.
- 9.4 Non staff costs are £10,989 under budget for the month of February and cumulatively are over by £28,443. Because of accruals made at 30 June 2016 we have been able to cushion the impact of the significant level of legal service invoices received in January and February. A number of adjustments have been made to year-end figures.
- 9.5 The anticipated total expenditure out-turn has been revised to £2,976,250 which is £112,950 over budget. Income at £2,754,751 is £36,616 higher than budget. Reserves at the end of June 2017 are anticipated to be in the region of £454,000 with the prospect of additional expenditure commitments continuing into financial year 2017/18.
- 9.6 The FCSM stated that there was very little to report on the balance sheet.
- 9A. Banking Arrangements (Cambridge and Counties)**
- 9A.1 The FCSM had been asked at the previous meeting to come back to the Board with further information on the SLCC's banking arrangements.
- 9A.2 The FCSM presented the paper (which recommended continuing the current banking arrangements) and asked if the Board had any questions, and there were none.
- 9A.3 The Chair asked the Board to note the contents of the paper, which it did.
- 10. Appeals Update**
- 10.1 The CIM provided an update on current appeals. The CIM stated that there was no major news and no further appeals, since the last update and asked the Board to refer to the papers.

- 10.2 The Chair raised a question regarding the SLCC presenting no objection to the motion to renew sist in a particular case. The CIM clarified that in this case the complainer had raised a point regarding the hybrid issue, and the advice was to agree to the sist until the outcome of the AS case. This also avoided the SLCC paying the costs of contesting the motion to sist. The Chair was satisfied with this decision.

*At this point, the Chair jumped ahead to Point No. 15 from the Agenda, as a Member had to leave the room for a short time.*

**15. ABS Update**

- 15.1 The CEO advised that there was no progress; the SGvt continues to indicate that an implementation timetable is coming, the SLCC is not planning to start work until a timetable is available (as the approval of a regulator has been flagged as imminent since 2010 but never materialised). The Board has requested that an update is provided at each meeting.

- 15.2 The Chair noted that the Board is keeping a close watch on this issue.

**16. Proposed Board/Performance Call/ Determination Committee Meeting Dates for 2018**

- 16.1 The Chair suggested that this document be ready to share with applicants for the Chair role, and therefore be prepared in time for interviews.

- 16.2 The Board noted the paper presented and agreed to the recommended pattern of meetings for 2018.

**17. Draft Terms of Reference for Legal Chairs Group**

- 17.1 The Board noted the paper presented and agreed to the recommendations (subject to some minor drafting changes, delegated to the CEO).

Action	Owner	Due Date
To finalise the Terms of Reference of the Legal Chairs Group and enter these into the governance policy register	CEO	Tuesday, 31 May 2017
To set the date for the first meeting, and to provide a verbal report to the next Board meeting	Legal Chairs	Tuesday, 31 May 2017

**18. Oral Hearings Procedure Amendment**

- 18.1 The Board noted the paper presented and agreed to the following recommendations:

Action	Owner	Due Date
Amendment of the Oral Hearings Procedure to permit Determination Committee, at its discretion, to determine a complaint immediately after it decides to refuse an Oral hearing request	CM	Tuesday, 31 May 2017
Delegate to the Board Chair and one of the Legal Chairs the approval of the amendments to the Oral Hearings Procedure as a consequence of the Board's decision	CM	Tuesday, 31 May 2017

*At this point, the Member returned and the Chair directed the Board to Point No. 11 on the Agenda.*

## 11. Risk Register

- 11.1 The CEO advised that the risk register is being developed as a result of the Board wishing a revised approach to risk, the two workshops on this issue held in 2016, and productive conversations at the Audit Committee, promoting greater scrutiny and conversation with regard to risk. The CEO requested the Board approve this format for the register, allowing the focus of work to move from the creation of a new system to the ongoing scrutiny and management of risk and mitigations.
- 11.2 A Member added that the risks identified at Board meetings should be included in the risk register. The CEO confirmed that risks coming out of any meeting (Audit, Board, SMT, IMT, etc) would be scored and added to the strategic register, or an operational register, if appropriate.
- 11.3 A Member suggested that document be live and evolving. The AC can review it each meeting and see if circumstances have changed, and also increase or decrease the risk factors in seriousness (green, amber, red).
- 11.4 The Chair asks that the risk register be included in future Board meetings, to ensure the Board remained mindful of risk. The Board approved this.

Action	Owner	Due Date
CEO to ensure that the summary page from the risk register is presented at all Board meetings and performance calls.	CEO	Monday 24 April

## 12. Assurance Mapping

- 12.1 The CEO presented these papers to provide context and information about what activities the Board are checking on.
- 12.2 The Board approved the recommendations in the paper.

Action	Owner	Due Date
The CEO should work with the Audit Committee to further develop this approach, with a paper being brought to the Board in September which finalised the assurance map and process, which would then be monitored and evolved on an ongoing basis by the Audit Committee.	CEO	Tuesday 26 September

## 13. AC Self-assessment Feedback Presentation to the Board

- 13.1 The Chair of the Audit Committee noted that it was best practice to periodically undertake such a review, and thanked those involved for contributing frankly.
- 13.2 The Board noted the results of the review and the actions planned.

## 14. Minutes of the Audit Committee

- 14.1 A verbal update had been provided at the last meeting on the work undertaken in the last Audit Committee. The AC minute of 17 January 2017 was now being submitted for formal approval. The Board approved the minute.

## 19. Board Actions Register

- 19.1 The Board noted actions 159 and 201 were completed and should be removed from the register. The CEO advised that other actions should all be cleared by the May Board meeting.

## 20. Minutes of Previous Meetings from 31 January 2017 and 27 February 2017

- 20.1 The Board approved the minutes of the previous meeting and previous performance call.

## 21. Chairman's Report

- 21.1 The Board noted the paper presented.

**22. Chairman's Nominations for Committee Roles**

22.1 The Board noted the paper presented and agreed to the appointment of Sara Hesp to the Audit Committee and Sarah McLuckie to the Health and Safety Committee.

**23. Date of Next Meetings**

23.1 The next Performance Call was due to take place at 10am on Monday 24 April 2017, with a Board Development Session at 2pm on Monday 29 May 2017 and the next Board Meeting was due to take place at 10am on Tuesday 30 May 2017.

**24. AOCB**

24.1 Rules - The typographical change to the rules was approved. It was noted this was the set of rules due to come into force on April 1<sup>st</sup>, and that full consultation had taken place. The typographical error affected the meaning of the rules, meaning it was not consistent with the policy we had consulted on. Since this was a drafting error by our lawyers, rather than a change to policy, further consultation was not deemed proportionate or necessary.

**25. Chief Executive's Report**

25.1 The Board noted the paper presented. Further information was provided on several meetings linked to the **#ReimagineRegulation** work.

**26. Review the Meeting – Feedback for SMT and ECO**

26.1 The Chair asked the Board if they would like to share any feedback or questions; all Board Members declined to do so.

26.2 The Chair noted that the Board sends best wishes to [REDACTED], and thanks [REDACTED] and [REDACTED] for their additional work and support in preparing the Board papers.

*1.10pm Board Meeting ends*