

**MINUTE OF A MEETING OF THE MEMBERS OF THE SCOTTISH LEGAL COMPLAINTS
COMMISSION: 10.15 AM TUESDAY 27th September 2016**

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

PRESENT:

LAY:

Bill Brackenridge (Chair)
Kevin Dunion
Ian Gibson
Emma Hutton
Michelle Hynd

LAWYER:

George Clark (till 11.15am)
Ian Leitch
Amanda Pringle

In attendance:

David Buchanan-Cook (HO) (Items 1-22)
Keith MacConnachie (CM) (Items 1-22)
Neil Stevenson (CEO) (Items 1-25)

John Ferrie (F&CSM) (Items 1-22)
Caroline Robertson (HI) (Items 1-22)
[REDACTED] (Secretariat, minutes)

Apologies:

Sam Jones

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
CoS – Court of Session

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

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 without the presence of the SMT.

2. Apologies

- 2.1 The Chair advised that apologies had been received from Sam Jones.

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.
- 3.2 Kevin Dunion noted his Declaration of Interest in advance of the discussions on the Agenda item on Members Code of Conduct as he is also a Member of the Standards Commission.

4. Outcome of Anderson Strathern vs SLCC Appeal

- 4.1 Members confirmed that they had reviewed and considered the CoS Appeal decision and the legal advice received on the implications and ramifications this decision would have on the rudimentary workings of the SLCC processes, and more importantly the impact it will have on complainers.
- 4.2 The Chair note the two-hour workshop session on the issues which had been held the previous day, and the slide presentation from the CEO, HI and FCSM on the issues, implications, risks, possible solutions, and views of other bodies. He reminded the Committee that as well as our own legal advice, the Law Society of Scotland had provided their differing advice on the issue.
- 4.3 The HI tabled a paper which shows the breakdown of the potential number of cases that are affected by this Appeal decision. This paper showed the number of cases at the different stages of the process. The CEO and HI advised that there have been a number of free and frank discussions with the LSS on this matter and that the SMT will continue to liaise with them. The Chair noted that he and the CEO had met and discussed the issues with the President and the CEO of the LSS the previous day.
- 4.4 Members discussed in detail the options available on the basis of the legal advice. Following a very wide ranging discussion Members agreed with the proposal suggested by the SMT that all cases affected will be reviewed and categorised with a valid categorisation (that now being only 'service' or 'conduct' and not 'hybrid') in line with the advice received and all parties will be notified in writing. Members subsequently instructed the CEO to commence the re-categorisation of cases with immediate effect. Members noted that this decision might not have the consensus of the sector, in particular the LSS, however, it was agreed that the SMT had to proceed on the basis of the recent legal advice. Members acknowledged there might be a potential increase in risk of Appeals in light of this decision (but that all options had risks attached, and the chosen approach the least), and it was agreed that the SMT would closely monitor the financial impact this will have on next year's budget and that the F&CSM would record separately the expenditure for this exercise. Members also considered and noted the impact the re-categorisation work will have on the normal operational production KPIs. Finally, Members authorised the CEO to approve all communications on this matter and place FAQs on our website. It was also agreed that the SMT would update Members at the next Board Meeting.

Action	Owner	Due Date
F&CSM to collate separately the financial costs relating to the outcome of the Anderson Strathern Appeal decision.	F&CSM	ongoing
Update on Anderson Strathern Appeal re-categorisation to be provided at the next Board Meeting.	CEO & SMT	1 November 2016

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 199 cases.
- 5.2 Mediation – The HI advised that due to the current situation on hybrid decisions there are currently only 4 cases currently sitting within Mediation.
- 5.3 Investigation – The HI advised that the number of cases issued at Investigation was 22, however, this will be lower next month due to the recent CoS decision. Discussion took place regarding the high reliance on the use of Reporters and it was agreed that the recruitment and retention of Reports going forward would be carried out in a transparent and open process. It was agreed that governance on the use of Reporters would be brought to a future Board meeting. The HI also advised that they have concluded the recent CI interviews and have appointed an additional 3xFTC, one internal and 2 external appointments.

Action	Owner	Due Date
HI to provide an update on Reporters to be provided at a future Board Meeting.	HI	31 January 2017

- 5.4 Determination - The CM confirmed that 7 Determination Reports had been issued however, it was anticipated that the outstanding 7 cases which were greater than 6 months were affected by the recent CoS decision would be issued when the categorisation issue was completed.
- 5.5 WIP – Members noted that the figures as presented.
- 5.6 Total Case Lifetime Averages – Members noted the figures presented and the HI reminded the Board these figures as with all of the above figures will be affected by recent CoS Appeal decision.

11.15am George Clark left the meeting.

- 5.7 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. The CEO also advised that the SMT will bring a sample report and new format for the presentation of the Management Information figures to the Board.
- 5.8 Members thanked the SMT for their update to the papers presented.
- 6. Appeals Update**
- 6.1 The CM spoke to the paper presented and advised that there have been 7 new Appeals received since the last update, one at Determination stage and 6 on Eligibility decisions issued. The CM gave Members an overview of the current status on prospects of these new Appeals. Members also noted the update regarding the current ongoing Appeals.
- 6.2 Members noted the impact of the recent CoS Appeal decision and cost implications this will have on the SLCC.
- 6.3 The Chair raised his concern in the increase in recent Eligibility decisions. The CM reiterated that though there might appear to have been a large number of Appeals when compared with the number of complaints received, along with the number of decisions issued at both Eligibility and Determination stages they are comparative.
- 6.5 Members thanked CM for the update and explanation to the paper as presented.
- 7. Finance Report**
- 7.1 FMR – 2 months to 31 August 2016
The F&CSM spoke to the FMR papers presented and advised that they were still waiting on the final approved Audited accounts from the External Auditors. The F&CSM advised the External Auditors have now completed their field work and analysis of our Annual Accounts. Members noted that there would be an increase in staff costs due to the extra categorisation work following the court ruling and the F&CSM advised this will be reflective in future reserves provision for accruals.
- 7.2 The F&CSM confirmed that the AC would ratify the final Accounts prior to formal approval at the next Board Meeting.
- 7.3 The F&CSM also gave an overview of the Balance Sheet figures as presented along with the FMR. The Chair sought clarification regarding the increase in Reporter expenses and the F&CSM advised this was dependent upon receipt of invoices due for payment and the high volume of cases at the present time.
- 7.4 Members thanked the F&CSM for his explanation to the papers presented.

8. Eligibility Process Improvement

- 8.1 The CEO advised that the paper presented had been drafted prior to receipt of the recent Appeal decision. The HI suggested that whilst certain recommendations to changes within our process could be made, it was agreed that these should be deferred and brought back to a future Board Meeting for further discussion.
- 8.2 Members recorded their thanks to the CEO and HI for presenting such a detailed and well-reasoned paper.

Action	Owner	Due Date
Eligibility process improvement to be discussed at future Board Meeting.	HI & CEO	31 January 2017

9. Update on Consistent Decision Making

- 9.1 The CM spoke to the paper presented and sought a steer from the Board as to whether or not Members would like to 'test' the final document prior to utilisation by Members and Clerking.
- 9.2 Members advised they envisaged this document to be used by staff to brief Members on similar cases in advance and also alert Members where a particular case might be departing from making a consistent decision and if they do, Members reasons for doing so should be captured and well-reasoned.
- 9.3 Members noted the future planned work of the CM on this topic.

11.35am comfort break

11.43am Meeting resumed

10. Demographic Year Book

- 10.1 The HO spoke to the paper presented and gave an overview of the Consumer Panel's first publication document. Members noted the contents with interest and suggested that it might wish to make more of a comparison with the Scottish population. The HO advised that this was a 'high' level report and whilst the Consumer Panel were not seeking particular feedback or comments on the report, the HO would advise the Consumer Panel of the points raised by the Board.
- 10.2 Members noted the paper presented and thanked the HI for his update on behalf of the Consumer Panel.

11. ABS Complaints Process Map

- 11.1 The HO and CEO spoke to the paper presented. The HO advised that the Oversight Manager has tried to outline and show the different types of complexity of cases and the impact they will have on the SLCC. The CEO advised that it was now likely that these might be implemented either late this year or early next year.
- 11.2 Following discussion, it was agreed that a briefing session on the Oversight Process Map would be scheduled for the Members in January 2017.

Action	Owner	Due Date
ABS Complaints Process Map and implications of the Legal Services (Scotland) Act 2010 briefing session at the January Board Development Session.	HO & CEO	30 January 2017

12. Update on Lothian Pension Scheme Liability

- 12.1 The F&CSM advised that the External Auditor had approved the figures presented by LPF actuaries but were seeking clarification on the return on investment. The F&CSM will continue to monitor the information received from LPF and update the Board accordingly.
- 12.2 The Board noted the paper presented the improved position, and the update given by the F&CSM.

13. Consumer Panel Minutes and Update

13.1 The HO spoke to the paper presented and Members noted the approved Minutes of the Consumer Panel from 4 August 2016. Members sought clarification as to whether or not the consumer feedback would be presented to the Board. The CEO confirmed that this would be presented Quarterly at the next Board Meeting and data would be published in the Annual Report.

14. Scheme of Delegation

- 14.1 The HI advised that the proposed changes to the SoD linked into the proposed improvements to Eligibility decisions.
- 14.2 Members sought clarification as to why there was not a preferred use of BACS payments rather than the use of cheques and the F&CSM explained why there was still a small reliance on cheques for purposes where BACS was not possible (for example, the drawing of petty cash).
- 14.3 Members also sought clarification on staff governance in relation to the appropriateness of reviewing and approving policies and it was agreed that they would be drafted and agreed by the CEO/SMT but, where appropriate (as laid out in the scheme) would be brought to the Board for approval.
- 14.4 The Chair suggested the removal of references to the role of 'vice chair' and other redundant staff roles to ensure consistency within the document. It was agreed that the CEO would revise and ensure consistent application of wording and roles before final approval of the SoD by the Chair.

Action	Owner	Due Date
CEO to ensure that consistent application of job titles/roles is applied throughout the SOD Policy and send to the Chair for approval.	CEO	1 November 2016

15. Members Code of Conduct

- 15.1 The CEO spoke to the paper presented and Members were advised by K Dunion that Members should advise of changes in their personal circumstances within one month of the change taking place, ie if they are appointed to another Public Appointment etc this should be recorded within one month of the appointment being made.
- 15.2 The CEO agreed to revise the document in light of this and subject to this change Members approved the document.

16. Supporting Members/Joint Working

- 16.1 The CEO spoke to the paper presented and reiterated that the executive staff would send an email to Members personal email addresses to alert them that they have SLCC emails.
- 16.2 The Chair suggested that non-case related emails could be sent to both email addresses, this would allow Members to read the emails promptly but when they were replying Members should only reply from their SLCC email address and then delete the email from their personal email accounts once it has been read.
- 16.3 Members all agreed to the proposal presented in the Joint Working paper as presented by the CEO.

17. IT Facilities for Members

- 17.1 The CEO spoke to the paper presented and thanked Members for responding to the FO on the recent IT short survey. The CEO also confirmed that all points raised by Members would be considered and discussed with the Chair, with costing proposals brought to the Board at the next Meeting.

Action	Owner	Due Date
CEO, F&CSM and Chair to discuss IT facilities for Members prior to presenting costings and proposals at the next Board Meeting.	CEO, F&CSM & Chair	29 November 2016

18. Board Actions Registers

- 18.1 The Chair and CEO provided Members with an update on the actions register. Updates were given in particular to the following Actions:
- 18.1.1 Action 146 – which has been superseded by the recent Appeal decision and will be reviewed for update at the end of November Board Meeting.
 - 18.1.2 Action 156 – the Chair advised that Member recruitment was progressing within the planned timescales.
 - 18.1.3 Action 158 – the F&CSM advised they were still carrying out additional microphone testing.
 - 18.1.4 Actions 159 and 160 – the CEO advised that both these actions were added with approval from the Chair, so that the SMT did not lose sight of this work due to the recent Appeal decision, so it was agreed they would be added to the Actions Register and an update will be provided at the next full Board Meeting at the end of November.
- 18.2 Members noted the updates and all cleared items had been removed from the Actions Register.

19. Minutes of Meetings from 26 July and 23 August 2016

- 19.1 26 July 2016
The Minute of the Board Meeting was approved as read.
- 19.2 23 August 2016
The Minute of the Performance Call Meeting was approved as read.

20. Chairman's Report

- 20.1 Members noted the meetings undertaken by the Chair.

21. Dates of Next Meetings

- 21.1 Members noted the dates of future Board Meetings and Development Sessions as listed.
- 21.2 The next **Board Meeting** will take place on **Tuesday 1 November 2016 at 10.15am**. There will be a **Board Development Session** on **Monday 28 November 2016**, commencing at **2.00pm** with training provided by an external trainer. 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.

22. AOB

- 22.1 Health & Safety Policy Statement – (tabled for annual approval) Members confirmed they approved the tabled paper as presented.
- 22.2 No other business noted.

12.25pm HI, F&CSM, HO and CM all left the Meeting

23. Staff Survey Outcomes

- 23.1 The CEO spoke to the paper presented and advised Members that staff had now participated in the Workshop sessions lead by the Staff Representatives, with good suggestions and outputs received from both sessions.

23.2 Members were encouraged by the positive responses contained within this survey report, which compared to the last one, shows a marked improvement in the views of staff, in particular, staff morale.

23.3 Members thanked the CEO for his update to the paper presented.

24. Chief Executive's Report

24.1 The CEO spoke to the paper presented. Members noted the meetings undertaken by the CEO, in particular, the meeting with the new Vice Dean of FoA. The CEO advised that this was a positive and valuable first meeting.

24.2 Members also noted the future planned meetings for October.

24.3 Members thanked the CEO for his update to the paper presented.

25. Review of the Meeting

25.1 Members reviewed the meeting today, along with the Board Development Session of 26 September, during which Members began the development process for drafting the 2017/18 Operating Plan and revising the Risk Register.

25.2 With no other business the meeting concluded.

12.40pm Board Meeting ends

