

**MINUTE OF A MEETING OF THE MEMBERS OF THE SCOTTISH LEGAL COMPLAINTS  
COMMISSION: 10.25AM TUESDAY 29<sup>th</sup> NOVEMBER 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  
Ian Leitch  
Amanda Pringle

**In attendance:**

David Buchanan-Cook (HO) (Items 1-22)  
[REDACTED] (CIM2) (Items 1-22)  
Caroline Robertson (HI) (Items 1-22)  
[REDACTED] (Secretariat, minutes)

John Ferrie (F&CSM) (Items 1-22)  
Keith MacConnachie (CM) (Items 1-22)  
Neil Stevenson (CEO) (Items 1-24)

**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  
SGvt – Scottish Government

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>

**1. Welcome**

- 1.1 The Chair welcomed everyone to the meeting and apologised that his earlier meeting with Scottish Government had over-run slightly.
- 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 apologies were received from Sam Jones.

**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 The Chair and CEO confirmed that they had had a supportive, convivial meeting earlier with the SGvt Sponsor Department. The main focus had been on recent developments in relation the court ruling earlier in the year. It has been agreed another meeting would be booked to discuss longer term legislative change, which had been the original purpose of this meeting. The Chair confirmed that they will continue to update the SGvt Sponsor Department on a regular basis.

- 4.2 The HI confirmed that to date we have received notification of 15 Appeals from the LSS, with 2 still to be received as a result of our re-categorisation decisions. The HI also advised that in all these they would instruct the one legal adviser, to deal with our representations.
- 4.3 There had been some confusion in service by the lawyers acting for LSS. Postage had not been correctly paid by the lawyers, the wrong files were included with some notices, cases past appeal date were included, and none hybrid issues had been included. Files are being worked through to assess the true position.
- 4.4 The Board noted the slides presented.
- 4.5 The Chair confirmed that Members would be kept up to date of any ongoing issues.

## 5. Management Information & KPIs

- 5.1 The HI spoke to the paper presented and advised that the order of the MI presentation of figures had been changed slightly to reflect the recent LEAN course that the SMT had attended. This will now ensure that the Members focus on WIP before considering each other stage of the process.
- 5.2 WIP – The HI advised that there had been an increase in the number of cases; this was due to an increase in new complaints received and also due to the 58 cases still awaiting a decision on liaison with the LSS.
- 5.3 Total Case Lifetime Averages – The HI advised that this will continue to increase each month until the conclusion of the liaison of cases with the LSS.
- 5.4 Members enquired as to whether or not the total number of cases which were sitting within the liaison categorisation could be extracted from the overall figures and the HI agreed to clarify whether this was possible or not.
- 5.5 Cases to be allocated – The HI advised that there were currently 185 cases awaiting allocation and projection figures for November are showing another busy month.
- 5.6 Enquiry & Eligibility - The HI advised that the complaints received for October was within the current predicted parameters. Members sought clarification as to whether or not the SMT were monitoring the correlation between staffing levels and production levels. The F&CSM acknowledged that whilst production levels had improved they were still not of an acceptable level, this was due to the diversion of current resources relating to the CoS Appeal. The CEO advised that the SMT still had a plan in place to reduce this, hopefully by June/July next year or at the very latest by November/December. The Chair suggested that he meet with CEO and F&CSM to discuss production capacity levels and bring an update back to the Board. The CEO also suggested that the Board might benefit from a visual aid of this information and this was agreed by Members.

Action	Owner	Due Date
CEO, F&CSM and BB to meet to discuss production capacity rates and bring a visual aid of this information to the next Board Meeting.	CEO & F&CSM	By 31 Jan 2017

- 5.7 Mediation – The HI advised that although there had been an increase in the number of cases being transferred to Mediation, unfortunately the recent uptake rate has been disappointing.
- 5.8 Investigation – The HI also advised that due to the ongoing re-categorisation work, cases were slower at transferring back to Investigation stage.
- 5.9 Determination - The CM advised that there had only been 2 Determination Reports issued and like other areas of the business this was due to the CoS Appeal decision. The CM gave an overview of the current Clerking caseload and advised that there were currently 8 cases still within the recat stage of the process at the LSS. The CM also advised that there were 4 cases within Clerking which involved demitting Members and due to further investigation work being required on these cases, they will be re-considered by new DC when they are returned to Clerking.

5.10 Members thanked the SMT for their update to the papers presented.

**6. Balance Scorecard**

6.1 The CEO apologised and advised that Members would be updated at the Performance Call on 20 December 2016.

Action	Owner	Due Date
CEO to finalise the Balance Scorecard and provide an update to the Board at the next meeting.	CEO	20 December 2016

**7. Final Approval of Draft Operating Plan 2017/18 for Consultation**

7.1 The CM spoke to the papers presented and advised Members that all comments received had been taken into account and updated to reflect these responses. Following discussion it was agreed that the CEO would review the list of priorities and produce a clear list of the final top 5-7 priorities for approval and discussion at the Performance Call.

Action	Owner	Due Date
CEO to produce a clear list of top 5-7 projects for the presentation of the final Draft Operating Plan 2017-18 for update at the next Perf Call Meeting.	CEO	20 December 2016

**8. Final Approval of Draft Budget and Complaint Levy 2017/18**

- 8.1 The F&CSM spoke to the papers presented and advised that the draft Budget is assuming that the end of year reserves of £210-215,000, which are approximately 1.8months. The F&CSM confirmed that this figure took into account the budget assumptions from the previous Board Meeting. Members noted that these figures reflected the impact of the recent CoS Appeal decision.
- 8.2 Direct Staff Costs included the conversion of temporary CI contracts to permanency. There is also an assumption within the staff budget for a 1% increase by SGvt for the annual incremental pay rises to staff and that two current temporary posts in other teams may require to be converted to permanent.
- 8.3 Indirect Staff Costs include a provision for a modest increase in the Member/Chair Training to allow for the recent appointment of new Members.
- 8.4 Non Staff Costs whilst it was acknowledged that small savings could be made within Special Projects and Capital Depreciation there was a significant increase in Direct Case Costs as a result of the recent CoS Appeal decision and influx of new Appeal cases brought by the LSS. It was noted that the F&CSM hoped for further clarity of these figures during the consultation period and before the adoption of the 2017/18 budget.
- 8.5 The F&CSM advised that the draft Budget indicates an increase on total expenditure of approx. 12.5% on 2016/17 levels, this will impact on a proposed increase in respect of General Levy and have a consequent impact upon Reserves.
- 8.6 The F&CSM tabled a graph which showed that since an initial peak of complaints at the creation of the SLCC in 2008 the numbers of complaints received had been in decline. However, based on the data gathered in the last 12 months, this trend is no longer the case. In the 15/16 accounting year a 12% increase was reported, but the last 12 calendar months were over 30% up on the previous 12 months before that. At the moment, this best prediction on the data was on an ongoing increasing load.
- 8.7 Following discussion Members suggested that the proposed General Levy should apply to all professional members.
- 8.8 It was agreed that the CEO and F&CSM would finalise the draft Budget and Complaint Levy for update at the Performance Call on 20 December 2016.

Action	Owner	Due Date
F&CSM to circulate a copy of the Incoming cases graph to all Members with a view to aiding future Budgetary Complaints Levy discussions at the next Perf Call Meeting.	F&CSM	20 December 2016

11.40am comfort break

11.45am Meeting resumed

## 9. Finance Report

### 9.1 FMR – 4 months to 31 October 2016

The F&CSM spoke to the FMR papers presented and advised these were for the first 4mths of the new Financial Year.

9.2 The F&CSM advised that due to the ongoing CoS Appeal decision there was an increase in Direct Staff and Non Staff Costs due to staff overtime and higher than budgeted legal expenses. This will be reflected in the adjustments made to the year-end figures. It was noted that there had been a slight reduction in Indirect Staff Costs for the month.

9.3 The F&CSM advised that the total expenditure out-turn have been revised to £2,972,500 which is £109,250 over budget. This means the Reserves at the end of June 2017 is anticipated to be in the region of £465,000 with the prospect of additional expenditure commitments continuing into the 2017/18 financial year.

9.4 The F&CSM also gave an overview of the Balance Sheet figures as presented along with the FMR. It was noted that there has been a modest increase in interest on Bank accounts.

9.5 Members thanked the F&CSM for his explanation to the papers presented.

## 10. Appeals Update

10.1 CIM2 spoke to the papers presented and advised Members that since the last update no new Appeals have been received in respect of Determination decisions. However, there were 2 new Appeals in respect of Eligibility decisions, one had been conceded and remitted back by way of Joint Minute and the other has the hearing date set and an update will be provided at the next full Board Meeting in January.

10.2 CIM2 also confirmed that all other reported Appeals are still ongoing and there were no other updates to note, other than those previously discussed under item 4, in that, we have now received intimation of 17 Appeal cases from the LSS.

10.3 Members thanked CIM2 for the update to the papers presented.

## 11. Review of Time Limit Rule

11.1 The HO spoke to the paper presented and sought approval from Members to delay the implementation to change the Time Limit Rule till late next year. Members disagreed that this should be delayed any further.

11.2 Members discussed the various options in detail, in particular, to the removal of any reference to the '6-month' timeframe (from the date at which the 1<sup>st</sup> tier has completed) as Members agreed this would be confusing and problematic to implement. Members fully considered the reasoning of why they considered it imperative that this change be implemented as soon as practically possible. The HO reminded Members that any major additional change may require re-consultation with all Stakeholders and this was taken into consideration by Members.

11.3 Members agreed that the revision to the 3year Rule be delegated to the CEO for Stakeholder engagement and implementation. It was also agreed that the CEO would report back to the Board, removing the '6-month' date and possible implementation date of 1 March 2017.

**12. Presentation of Members' Cost Analysis Exercise carried out by the AC**

- 12.1 The F&CSM spoke to the paper presented and gave an overview of the reasoning why this exercise was conducted by the AC. It was noted by Members that the highest cost/time is with regards to Determination Committees and Eligibility cases; however this has reduced slightly on the previous year. It was anticipated with the commencement of new Members this might change/increase for the next Quarter.
- 12.2 Members noted the paper presented and thanked the F&CSM for his update.

**13. Scottish Government Framework Agreement**

- 13.1 The CEO advised that this had previously been discussed by Members and the CEO had reviewed the document in light of the previous Board Meeting discussions.
- 13.2 Members suggested a few typographical changes to the SGvt document and advised that it does not clearly describe the SLCC as a Non-Departmental Public Body, in that, Ministers cannot direct on Determinations and our funding is totally different to that of other bodies. The CEO clarified that the SGvts perceptions is that the SLCC are independent, as are the DCs. Members delegated the actioning of final amendments to the CEO and agreed with the proposed document.

**14. Consistent Decision Making**

- 14.1 The CM spoke to the paper presented and gave an overview of the paper. The CM also sought final approval of the current document prior to compiling information on another area of law, ie Executries.
- 14.2 Members noted the progress made to date and requested a Development Session on how to access the search facilities of the document.

Action	Owner	Due Date
CM to arrange a Board Dev Session on how to search within the Consistent Decision Making database.	CM	29 May 2017

**15. Draft AC Minutes from 10 October 2016**

- 15.1 The AC Chair spoke to the paper presented and gave an overview of the paper.
- 15.2 Members noted that the new Auditors had been appointed and the next AC Meeting Agenda would include priorities on Risk Register and Operating Plan.
- 15.3 The Chair thanked the AC Chair for his update to the draft AC Minutes.

**16. Board Actions Registers**

- 16.1 The Chair and CEO provided Members with an update on the actions register.
- 16.2 All Actions were continued or noted as complete. Members noted the updates and all cleared items had been removed from the Actions Register.

**17. Minutes of Meetings from 1 November 2016**

- 17.1 1 November 2016  
The Minute of the Board Meeting was approved as read.

**18. Chairman's Report**

- 18.1 Members noted the meetings undertaken by the Chair and sought clarification on meeting with the FoA. The Chair advised that this had been a useful meeting and it was agreed another meeting would take place in 6 months.

*12.30pm FO joined the meeting*

**19. Annual Health & Safety Report**

- 19.1 The FO spoke to the paper presented and firstly thanked the demitting Members for their ongoing input in the annual H&S Report.

- 19.2 Members noted the content of the paper and the proposed recommendations for the Board to consider and approve.
- 19.3 Members thanked the FO for the paper and approved the recommendations presented.

*12.35pm FO left the meeting*

**20. AOB**

- 20.1 The Chair requested that Members attend in person to the next Performance Call on 20 December and where possible, demitting Members return all IT equipment etc.

*12.40pm HI, F&CSM, HO and CM all left the Meeting*

**21. CEO's Report**

- 21.1 The CEO spoke to the paper presented. Members noted the meetings undertaken by the CEO, in particular, the meeting with LSO, Kathryn Stone. The CEO advised that this was a positive meeting.
- 21.2 Members also noted the future planned meetings for December.

**22. Dates of Next Meetings**

- 22.1 Members noted the dates of future Board Meetings and Development Sessions as listed.
- 22.2 There will be a **Board Performance Call on Tuesday 20 December 2016 at 10.15am**; all meetings will take place in the Stamp Office 10 – 14 Waterloo Place, Edinburgh, EH1 3EG.

**23. AOB**

- 23.1 No other business noted.

**24. Review of the Meeting**

- 24.1 Members reviewed the meeting today.
- 24.2 With no other business the meeting concluded.

*12.45pm Board Meeting ends*