

**MINUTE OF A MEETING OF THE MEMBERS OF THE SCOTTISH LEGAL COMPLAINTS
COMMISSION: 10.00 AM TUESDAY 20th November 2012**

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

PRESENT:

LAY:

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

LAWYER:

George Clark
Ian Leitch
Maurice O'Carroll

In attendance:

██████████ (CEO)
██████████ (F&CSM) (for part of meeting)
██████████ (GWTM) (for part of meeting)
██████████ (OA) (for part of meeting)
██████████ (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
AC – Audit Committee
HO – Head of Oversight

1. WELCOME, APOLOGIES AND DECLARATION OF INTERESTS

1.1 Declarations of interest were declared by George Clark, Maurice O'Carroll and Ian Leitch in relation to the discussion to take place about legal practitioners' levy in conjunction with the draft budget.

2. MINUTES, MATTERS ARISING AND BOARD ACTIONS REGISTER

2.1 The Board approved the minutes of 25 September 2012 subject to minor typographical amendments.

2.2 **Board Actions Register:** The Chair ran through the register and it was noted that some points would be covered in today's agenda, whilst the following actions were updated and noted:

2. The Board reiterated the importance for the training on reasoning to be delivered to Members and staff and noted that with the timescales provided in the update it would be almost a year from the Board requesting the training to it being delivered, however, they were content that the training be delivered by February

at the absolute latest.

Action	Owner	Due Date
Member training to be arranged on reasoning by the CEO/HR Manager and to be completed by February 2013	CEO	February 2013

8. The Board agreed that whilst they and some staff had looked at case studies, the Board would like the action reworded to reflect the need for an organisation-wide team development day following the new Chair being in post.

13. It was noted there would no longer be an extra Board meeting on the 19th December as the new Chair will not be recruited in time, and that once the new Chair is in place, the Board will have an Away Day. The Chair also confirmed that the post of Lay Member of the Board, to in-fill once Siraj Khan leaves the Board is now being advertised.

18. There was a short discussion over monitoring the Board's effectiveness and the CEO said that the External Auditors had said what the SLCC is currently doing is enough for an organisation of that size. However, he was considering a 180 degree feedback type session with the Board. The Board also noted that even though the External Auditors were content, there was still a big gap in terms of KPIs in that, at present, the Board do not have any they are working to.

2.3 There followed a discussion about the setting of new KPIs. The Board stated, that in terms of assurance they need to know what KPIs the SMT and Board are currently working to. The need for them is especially great in terms of the Board approving an operational budget based on extra staff and assumptions of performance. The CEO reminded the Board that in a previous presentation he had confirmed that in the last operational year 289 cases were closed, and in the first quarter of this year, the figures indicated a run rate of closing 432 cases by the end of the year. The previous presentation stated targets for cases being closed at the different stages of the complaints process and the CEO confirmed that these were the KPIs that were currently being worked to. However, the Board suggested that KPIs shouldn't just be about number of cases closed, but should include other areas of work that can be measured for effectiveness. The CEO said that he, the Gateway Team Manager and Senior Case Investigator are working on a user-focused piece which will detail case statistics and suggested KPIs, and that ultimately it would be the Operational Director, when in place, who will be working on this area going forward. The Board agreed they would like to see regular quarterly updates on KPIs at Board meetings as from a governance point of view, the Board require to have sight of these routinely as they were concerned that after six months from a discussion on revisals these were still not available. The Board stressed to the CEO that these are required and reporting should continue based on existing KPIs until a new suite is put forward for approval. The Chair affirmed that in the meantime there would need to be some supplementary information to go with the draft budget papers that detail: lead times, projections, current performance and run rate. The CEO agreed to provide these at the December meeting with the budget. This would be in addition to the information being provided on Member statistics already being provided in December.

Action	Owner	Due Date
CEO to provide KPI breakdown relating to the existing four stages of the Complaint Handling process, broken down on a monthly/quarterly and yearly basis.	CEO	January 2013

CEO to provide a qualitative KPI proposal and quarterly update for future Board Meetings based on the new proposed structure on qualitative measures.	CEO	March 2013
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3. BUDGET

3.1 **Financial Management Report to October 2012:** The F&CSM updated the Board on the most recent FMR to assist with providing a supporting analysis of expenditure trends which will inform the 2012-14 budget projection. Total expenditure to date is £958,076, which is higher than budget. A number of significant variances are contained within the figures, and the key points arising from these are noted below:

- Staff salary costs are £61,346 higher than budget. The total includes £49,489 of outsources and agency staff costs.
- Indirect staff costs are £10,036 higher than budget, and both Member expenses and recruitment costs are higher than budget to date.
- Direct case costs (case related legal costs etc) are £12,296 higher than budget.
- IT costs are £60,329 higher than budget. Expenditure shown includes £39,000 for Workpro report development, £15,000 for Workpro support costs to October, and £6,000 for the NVT support contract to October. The balance of expenditure is for additional equipment and licences.
- Savings have been achieved in a number of areas, and these have been reflected in the estimated out-turn.

3.2 The estimated expenditure out-turn is shown as £2,913,519, which is £126,688 higher than budget. Income is projected to be £48,174 higher than budget, and the net effect of the forecast is to produce a projected deficit of £204,002. This would in turn reduce reserves to £748,998 at the end of June 2013, broadly in line with current policy of retaining 3 months turnover.

3.3 There was a discussion around the costs associated with Workpro, and the CEO confirmed he was exploring other options for a case management system, however, it was noted that it wasn't an immediate priority and that it would be best placed once the restructure has had time to bed in. In the meantime, the CEO will be speaking with Workpro and reiterating the concerns over the inaccurate and limited reporting systems and the support service provided.

3.4 **Draft Budget 2013/2014:** The CEO and F&CSM presented a paper setting out the proposed expenditure budget and indicative levy in line with the SLCC's policy for budget setting. There was a full discussion regarding the proposed expenditure and the impact on setting the levy, mostly with regard to the restructure of the organisation and the costs associated with the changing roles.

3.5 There was a discussion about the areas of expenditure and the Board asked the CEO and F&CSM to make some changes to ensure that the budget will indicate a rise no higher than 2% on the general levy. The Board asked the CEO to prepare and provide a statement regarding the Budget at the next Board meeting. They asked that a clear message be included about costs incurred due to the failure of practitioners to pay levies.

Action	Owner	Due Date
Provide accompanying information with the budget on: lead times, unit costs, updated numbers, individual levy figures, complaints levy policy and an explanatory note to go out to the RPBs with the draft budget for consultation.	CEO	First report – February 2013

4. CEO UPDATE

- 4.1 **Values and Behaviours:** The Members agreed they were content with the Values and Behaviours outlined in the document presented by the CEO, and were happy to run with the document at present. However, they were disappointed that early resolution was not within the document and asked that it be looked at again at the next Member Day so that it can include some values and behaviours based around this.
- 4.2 **Scheme of Delegation:** The Board approved the addition of George Clark and Ian Leitch, both Board Members, to the list of approved signatories for banking arrangements.

Action	Owner	Due Date
The CEO to review and amend the Scheme of Delegation to include new signatories.	CEO	December 2012

- 4.3 The Board noted the rest of the CEO Update.
- 4.4 **Draft Operational Plan:** The CEO presented the draft Operational Plan and asked the Members to note that it still required more specific timelines and measures, but the current contents gave context to the proposed draft budget 2013/14. There was a short discussion around the contents and the Board were content with the contents albeit it was thought that some areas could be strengthened with more information on the SLCC's pro-active role in issuing guidance to the profession, and more information on access to submitting a complaint to the SLCC.

12.35 pm – 1.05 pm break for lunch

5. AUDIT COMMITTEE QUARTERLY UPDATE

- 5.1 **Annual Accounts:** The AC Chair asked the Board to approve the Annual Accounts which have already been considered by the AC. The F&CSM said that the only change asked for to the annual accounts by KPMG was the inclusion of a dilapidations provision and a letter of recommendation. Members approved the accounts.
- 5.2 **Strategic Risk Register:** The AC Chair informed the Board that the CEO has now adopted the SGvnt risk procedures and has now amended the SLCC register to contain 10 strategic risks. The main changes to note were the consolidation of some risks and new risk profiling. The Board agreed they were content with the new format and ask it be updated prior to the next Board meeting.

5.3 The Board recorded their thanks to David Chaplin for his contribution to the Audit Committee over the last year, and acknowledged Ian Gibson’s membership of the AC from October 2012.

5.4 **Data & Security Policy:** There was a short discussion around the policy which the AC had recommended be approved at the Board. The Board approved the policy subject to the recalibration of the risks detailed in the policy in relation to the loss of personal data - in that it be defined as ‘high’ risk and not ‘medium’ risk. They also asked that detail be included on who will deal with the breaches of data. The Board requested it to be emailed round following the amendment.

Action	Owner	Due Date
Amend the Data and Security Policy to reflect the loss of all personal data to be ‘high’ risk and the inclusion of a process for dealing with data breaches and who deals with them.	IO	done
The CEO to circulate a list of out of hours contact numbers for cover over the Festive period.	CEO	By 21 December 2012

6. REMUNERATION COMMITTEE UPDATE

6.1 The Chair asked the RC Chair to set an appropriate calendar of Remuneration Committee meetings for the next year which is driven by the pay and the performance calendar.

Action	Owner	Due Date
Set up all Remuneration Committee meetings for 2013	RC Chair	31 January 2013

Iain McGrory declared a conflict of interest and left the room for 6.2

6.2 There was a short discussion about payment for the vice- Chair covering for the Chair in the absence of a new Chair following the end of the current Chair’s appointment at the end of December. The Board agreed that the vice-Chair would be paid for the additional hours of preparation required to carry out Chair duties.

7. HR/STAFF GOVERNANCE

7.1 **Workforce Trends Report:** The paper was noted as incomplete and deferred until the December meeting.

7.2 **Annual Equalities Report:** The paper was tabled but deferred until the December meeting to give Members the opportunity to read and consider the paper.

- 7.3. Annual Health & Safety Report:** The Board thanked the Office Administrator for her report. They stated the paper was very good, however, as a small point, it did not detail any information on the policy for the compliance of display screen equipment regulations and eyesight tests. Even though it is covered in an employee's initial induction, there should be some consideration given to this area given the way the organisation operates.

Action	Owner	Due Date
The CEO to ensure that the SLCC comply with display screen equipment testing compliance.	CEO & HR Mgr	February 2013

- 7.4 Members' Disciplinary Policy:** There was some discussion over the policy. The Chair stated that the policy was drafted with the intention to be simple, with the onus on the Chair and Vice-Chair to run a fair procedure. The main issue was whether a Member can bring a representative to the hearing, given that the SLCC have the right to appoint and bring a legal advisor along – this could be considered unfair. It was also thought that the investigating officer should not be present during the deliberations, but leave after they have put their case forward. It was agreed that the Chair will revert back on these points, and the CEO and the new Chair will take it forward.

Action	Owner	Due Date
Revert back with proposed changes to the Members' Disciplinary policy and revert back to CEO and new Chair to take forward.	Chair	done

GTWM attended

8. POLICIES AND PROCEDURES

- 8.1** Review of Rule 4(6) & (7) of the SLCC's Rules 2009, which relate to the time limits for making complaints: The Board looked forward to seeing more comprehensive complaints handling guidance being issued in the future. The Board said that they wanted far more comprehensive guidance issued, and the recent Section 40 guidance revised. They stated that if it was not revised there would continue to be problems identifying time limited cases and new difficulties identifying which guidance is applied at which time. The Board suggested some issues which are outlined below for the Oversight Team to consider including in full guidance.

Action	Owner	Due Date
Redraft the latest Section 40 guidance in line with discussions at the Board meeting	HO	April 2013

- 8.2** The Board discussed the GWTM's time limit paper and indicated they would like the Section 40 guidance extended to include the following suggested topics:

- In circumstances where they are ceasing to act because their service has ended they should send a final letter advising the client that they consider the service to be at an end. This letter should advise the client that if they are unhappy with the service they should make a complaint to the Client Relations Manager (CRM) of the firm in the first instance but they if they are not satisfied with the response they should complain to the SLCC within a year of the letter. This would include where the service has ended upon completion of the task they were engaged to undertake and also where they choose to withdraw (e.g. when they haven't got instructions or they think the relationship has irretrievably broken down).
- Where the CRM receives a complaint they should respond formally in 28 days. If any attempts to settle fail or they are not upholding the complaint, they should make it clear it is their final response.
- Where the CRM receives a third party complaint they should be told they can respond if the response isn't breaching their client's confidentiality. They should always try to respond even if they are simply saying that they don't have their client's instructions to correspond so don't intend to respond further. If the SLCC asks for information about a third party service complaint, they should always consider whether they can provide some of the information requested even if other information is confidential.

8.2 The Board indicated that they would like the updated guidance to be issued in the meantime, but eventually they want all the guidance to be consolidated. They asked that an email be circulated to them detailing what was agreed.

Action	Owner	Due Date
Amend and redraft the Section 40 guidance in line with Board discussion and issue to all practitioners.	GWTM/OI/IO	April 2013

8.3 The Board agreed with the paper which reflects the last discussion on the matter and agreed the paper be remitted back to the working party to move forward.

8.4 **Rules Update:** The CEO updated that the first draft of the new Rules would be ready to go out for consultation by February 2013 for 2 – 3 months and it be concluded by April/May 2013. The Board agreed that Ian Leitch, Maurice O'Carroll and Sam Jones assist with the preparation of the Rules prior to consultation. The Board asked for regular updates at Board meetings until the end of consultation.

9. ANY OTHER BUSINESS

9.1 **Appeals Update:** The GWTM reported that since the paper had been sent out, there is another appeal. The Chair asked that the GWTM continue to update Members on the status of live appeals and let them know when there is a court case coming up via email so Members can attend as part of their training.

9.2 **Oversight Update:** The Members again expressed some concern that there was a lot of activity in the plan and may be too ambitious given the timescales. The CEO said the CIM was looking at the plan to outline what is achievable. The Members asked that an update be provided at every other Board meeting.

9.3 **Communication Update:** The CEO stated there was nothing further to add to the information that Board Members have seen previously, but there will be a full update at the next Board meeting in December.

Action	Owner	Due Date
Communications update to be provided	IO	January 2013

- 9.4 **Draft Report of the LSS's Timescales Audit:** The CEO asked Members to note the report and be aware that it was going back to the LSS for information and comments before being published. The CEO informed the Board that the SLCC would also be publishing its own timescales on the website at the same time. The Board asked that the CEO agree a timetable with the LSS for publishing.

Action	Owner	Due Date
Agree timetable with LSS for providing comments on the draft report and publishing the comments by the end of January 2013.	CEO	January 2013

10. DATE OF NEXT BOARD MEETING

- 10.1 The next Board Meeting due to be held on Tuesday 11th December 2012 at 10.10 am at the Stamp Office 10 – 14 Waterloo Place, Edinburgh, EH1 3EG.

Board Meeting ends 3.20 pm