

**MINUTE OF A MEETING OF THE MEMBERS OF THE SCOTTISH LEGAL COMPLAINTS
COMMISSION: 10.00 AM MONDAY 18TH JULY 2011**

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

PRESENT:

LAY:

Jane Irvine (Chairing Member)
Linda Pollock
Douglas Watson
Ian Gordon
Siraj Khan
Iain McGrory
Fiona Smith

LAWYER:

David Smith
David Chaplin
Maurice O'Carroll

APOLOGIES:

Margaret Scanlan
Alan Paterson

In attendance:

Rosemary Agnew (CEO)
[REDACTED]

Tony King (Pensions Ombudsman)
[REDACTED]

Abbreviations used:

LSS – Law Society of Scotland
SGvt – Scottish Government
RPBs – Relevant Professional Bodies
PO – Pensions Ombudsman

1. WELCOME, APOLOGIES & DECLARATION OF CONFLICT OF INTERESTS

- 1.1 Apologies – Margaret Scanlan and Alan Paterson
- 1.2 Members confirmed there were no conflicts of interest.

2. TONY KING, PENSIONS OMBUDSMAN

- 2.1 The Chair welcomed Tony King to the Board meeting and invited him to give a brief overview of the Pensions Ombudsman (PO) statistics, case numbers, budgets etc. The main points from the discussion are outlined below.
- 2.2 The PO handles complaints concerning personal and occupational pension schemes, but not state pensions. Any complaints regarding the mis-selling of pension schemes are handled by the Financial Ombudsman Service.
- 2.3 The PO operates within jurisdictions which are final and binding on both parties. The decisions are appealable to the Court of Appeal in England and Wales, and the Court of Session in Scotland.
- 2.4 The PO can make unlimited awards, with the highest amount ever awarded being £96.8 million, but generally the awards amount to anything from £150 up to 5 or 6 figure amounts.

- 2.5 They process around 3,000 general enquiries and around 1,000 cases per year. The PO has a general discretion to investigate, using a variety of investigation techniques. They operate two sets of processes, with one being a 'fast track' type process if appropriate.
- 2.6 Tony King gave an overview of budget, KPIs and performance management issues as set out in the just published annual report for 2010 – 2011.

3. APPROVAL OF PREVIOUS MEETINGS MINUTES

- 3.1 The draft SLCC minutes of 20th June 2011 were approved.
- 3.2 A general discussion regarding minutes took place and it was agreed that the format would be slightly adjusted going forward.

4. OVERSIGHT

- 4.1 **General Oversight Update:** Further to the previous month's Board meeting where a quarterly report on Oversight was presented to the Board, there was a general discussion concerning the work being undertaken at present in relation to the SLCC's oversight function at a more strategic level.
- 4.1.2 The Board acknowledged there had been a lot of recent activity regarding Oversight work, but were keen to know whether Section 40 guidance would be issued to the profession prior to end of the end of 2011. The CEO reported that whilst generic guidance is easy enough to give, more work is needed through other operational functions to identify what issues are specific to the Legal Profession in Scotland. She stated she was keen to issue guidance that is meaningful and helpful to the profession.
- 4.1.3 The Board confirmed they were content with the CEO's report.
- 4.2 **Guarantee Fund Research:** There was some discussion regarding the publication of the Guarantee Fund Research by Professor Stephen on the SLCC website. The Chair reported to the Board that she had attended a meeting at the LSS at their invitation, following receipt a letter from the President of the LSS setting out their concerns about the SLCC's intention to publish the findings from the research. She reported that the LSS reiterated the concerns outlined in their letter in relation to the conclusions reached in the University of Manchester's draft report and whether publication was appropriate. The Board Members were advised that Professor Stephens has been given a copy of the LSS letter. The SLCC have considered the issues raised and have agreed to publish the report.
- 4.2.1 The SLCC have agreed to send the LSS copies of completed questionnaires which will be issued to claimants on the Guarantee Fund.

5. COMPLAINTS UPDATE

- 5.1 The CEO reported on complaints for the final quarter of 2010/11 and the key points to note were:
- Performance against KPIs has fallen slightly in the current year compared to the previous year, largely due to the impact of the end of the transitional arrangements;

- The SLCC now has evidence that supports the perception that conduct complaint numbers are dropping currently, although there is insufficient data to conclude that this is a long term trend;
- The true impact of the end of the transition arrangements is only now beginning to reflect in complaint statistics, particularly at Gateway;
- The number/proportion of cases resolved at mediation is rising;
- More complaints are being conciliated at investigation stage (i.e. settled without reports)
- Complainers remain more likely than practitioners to reject a settlement report resulting in a complaint having to go to a determination committee.

5.2 A discussion ensued regarding the time taken for cases to be processed through the determination stage. Although it was clear, after talking through the process, that everything is being done to ensure a quick processing time, the Members agreed that two more cases could be included at each determination committee with a view to reviewing Committee workloads again once the 2008 Members have left at the end of the calendar year.

6. APPEALS UPDATE

- 6.1 The CEO updated the Board on Appeals and reported that no more appeals had been lodged since the last update.
- 6.2 The CEO reported that in line with the Board steer, all of the 'old' appeals have been remitted back to the SLCC through joint minute, or conceded and a new decision substituted, through joint minute.
- 6.3 There are 5 'live' appeals but the appellant has taken no action on one of them since the complainer withdrew the complaint.

7. SETTLEMENTS AND DISPOSAL POLICY

- 7.1 The CEO sought approval for a proposed change to the policy in relation to set-off. At present the SLCC in principle do not allow set-off (i.e. allowing firms to deduct compensation from unpaid fees). A refinement and clarification of wording is required to support effective communication with practitioners and to introduce the discretion to allow set-off if, for example, the practitioner can demonstrate that the fees have been taxed or the amount being recovered through court action is reduced – to allow independent scrutiny of the fees themselves and demonstrate transparency in approach.
- 7.2 The policy was approved subject to minor typographical changes.
- 7.3 There then followed a discussion regarding the feedback from determination committees and the Board agreed it would be useful to have a regular discussion day on the feedback which should include the relevant members of staff.

	ACTION: Chair and I. McGrory to look through feedback papers and pick out discussion points.	DUE: asap
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8. CEO UPDATE

- 8.1 The CEO reported that her main areas of activity over the last month were:

- Interviewing for the new operational posts;
- Dealing with increased media interest;
- Dealing with an increase in FOI requests.

9. CHAIR REPORT

9.1 The Chair reported that the Board recruitment is currently underway and that she would be involved in interviews during August.

10. DATE OF NEXT BOARD MEETING

The next Board Meeting due to be held on Monday 5th September 2011, 10 am at the Stamp Office 10 – 14 Waterloo Place, Edinburgh, EH1 3EG.

Board Meeting ends 12.30 pm