

**MINUTE OF A MEETING OF THE MEMBERS OF THE SCOTTISH LEGAL COMPLAINTS
COMMISSION: 10.00 AM MONDAY 14th NOVEMBER 2011**

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

PRESENT:

LAY:

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

LAWYER:

David Chaplin
Maurice O'Carroll
Alan Paterson
David Smith

APOLOGIES:

Margaret Scanlan

In attendance: Rosemary Agnew (CEO)

Abbreviations used:

LSS – Law Society of Scotland
SMT – Senior Management Team
FVTWM – Frivolous, vexatious, totally without merit
IM – Investigations Manager
F&CSM – Finance and Corporate Services Manager

1. WELCOME, APOLOGIES & DECLARATION OF CONFLICT OF INTERESTS

1.1 Apologies – Margaret Scanlan

2. APPROVAL OF PREVIOUS MEETINGS MINUTES

2.1 The draft SLCC Board minutes of 24th October 2011 were approved with minor typographical changes.

3. MATTERS ARISING FROM LAST MINUTES

3.1 The Chair ran through and cleared outstanding Board action points which were not agenda items at the meeting. No further action points on these arose at this time.

4. COMPLAINTS UPDATE

4.1 **Timescales Policy:** The CEO informed the Board that she had sought legal advice in relation to the SLCC's timescales policy. There was a fairly lengthy discussion and it was agreed that the policy would be amended to make clear that the one year time limit runs from the date service was last provided. This applies to all issues, whether conduct or service. If the issue(s) complained about relate to conduct that occurred more than a year before the complaint was made, it is still the date that service was last

provided that is applied. In other circumstances, the one year time limit also runs from the date a specific conduct issue occurred if the issue is stand-alone and there was no service provided.

- 4.2 Furthermore, the CEO agreed she would prepare a paper on the advice and re-draft the policy so that Members can view them together in context to aide a wider discussion on the timescales issues. Further discussion ensued and it was agreed that there would be a separate day dedicated to these matters plus further scrutiny of the decision on the McIntosh case and that the CEO would ask legal advisors to facilitate this discussion.

Action	target	actual	Comment / update
ACTION: CEO amend timescales policy asap and provide paper on timescales alongside re-drafted timescales policy for discussion and approval.	Policy – asap. Further paper - Dec 21st		

Action	target	actual	Comment / update
ACTION: CEO/MA to arrange extra Board day as discussed for Members in December 2011.	asap		

- 4.3 **Appeals Update:** The CEO updated the Board on the status of live appeals. The issue of appeals in the context of FVTWM decisions being appealed was briefly discussed with the main theme being that the 2-stage decision process is not conducive to effective or efficient complaint handling. It was resulting in complaints taking too long and being too expensive. It was acknowledged that this process could only change if there was a change to the primary legislation. It was thought that the SLCC would need to present a clear and well evidenced argument in writing to the Scottish Government for a change to be considered.

- 4.4 There was some general discussion around other areas of the Act and the overall impact it has on implementing a good complaints system. Again, the preparation of a paper by the CEO on issues of the 2-stage decision process was discussed and it was agreed that she would prepare a paper for discussion in February 2012 with a view to being presented to the Scottish Government.

Action	target	actual	Comment / update
ACTION: CEO to prepare draft paper evidencing the problem of the 2-stage decision process.	Feb 2012		

- 4.4 There was further general discussion on Appeals and there was a general feeling that Appeals were being decided on technicalities of law and process rather than in the interests of good complaints handling.
- 4.5 The Board discussed the number of cases waiting to be seen at Determination Committees. The Board asked the CEO how this was being managed. The newer Members asked whether there could be more Determination Committees at the start of the year and further stated that the issue was not down to Member availability.

The CEO said that more Determination Committees can be organised at the beginning of 2012, however there is a risk involved as there is only one fully trained legal Member available at the start of the New Year to Chair these committees as the SLCC had still not been informed of the new Board Members and therefore had not yet been able to organise any training in advance for them.

- 4.6 The CEO announced that, as previously discussed with the Chair, there would be a temporary Assistant Clerk in place within the next week or so to deal with FVTWM cases and that this would free up time for the 2 Clerks to focus solely on the organisation and facilitation of Determination Committees. There would also be a new email set up for the use of the Clerks' team and Members - to allow the Clerks' team to acknowledge and immediately progress Member queries/correspondence at all times.
- 4.7 Following discussion it was agreed that an extra two Determination Committees would be set in January, February and March.

Action	target	actual	Comment / update
ACTION: CEO to arrange for Clerk/Secretariat to schedule an extra 2 determination committees a month for January, February and March 2012	asap		

5. OVERSIGHT

- 5.1 **Guarantee Fund Update:** The CEO updated the Board that she had written to the LSS following the last Board meeting regarding the dissemination and collation of questionnaires but had not yet had a reply. However, the SLCC still intended to move forward and acquire information from the LSS on a quarterly basis regarding claims made to the Guarantee Fund as per the Board's earlier direction.
- 5.2 **Trends Report:** The CEO and Investigations Manager reported on possible trends identified through the Oversight Team's investigations into complaints submitted to the SLCC about a firm. It was agreed that a paper evidencing the trends would be sent to the LSS by the CEO with a response requested. The Board requested an update of the outcome to be made at a future Board meeting.

Action	target	actual	Comment / update
ACTION: CEO to send the Oversight Team's findings on trend analysis to the LSS for a response.	asap		

- 5.3 The CEO reported that the SLCC had attended the LSS to present the SLCC's first Oversight audit findings to them. There followed a brief discussion and it was agreed that on the final day of the 28-day response deadline communicated to the LSS, the CEO should write to them to follow up and inform them that the SLCC intend to publish the audit findings.

Action	target	actual	Comment / update
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ACTION: CEO to send letter to LSS on 12 th December 2011 to outline the intention to publish the audit findings	12 Dec 2011		
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6. ANNUAL ACCOUNTS AND EXTERNAL AUDIT

6.1 The CEO confirmed the Annual Accounts are finalised and that the SLCC had confirmation from the Auditor General of this.

7. ANNUAL REPORT

7.1 The Board approved the draft Annual Report subject to a change to the explanation of FVTWM and Time Limits.

7.2 CEO confirmed she intended to publish the report electronically predominantly to a wide range of people and organisations. The SLCC will also have a limited amount of hard copies available.

8. AUDIT COMMITTEE – QUARTERLY UPDATE

8.1 The AC Chair gave an overview of the latest minutes and confirmed that the CEO is drafting a letter to the Scottish Government regarding the concern over the delays occurring in appointing new Board Members.

8.2 The AC recommended that the Board appoint Iain McGrory as new Chair of the AC from January 1st 2012. Iain McGrory accepted the appointment.

8.3 It was also agreed that David Chaplin would be co-opted for a year with attendance at the first meeting of 2012 as an external member under the AC's Terms of Reference.

8.4 It was decided that as the Board and CEO are not yet aware of the new Member appointments, that the AC meeting scheduled for 17th January 2012 be changed to a later date following the January Board meeting to accommodate the arrival and preparation of new Board Members. The Chair also asked the current most recent Members to note their interest if they want to be part of the Audit Committee going forward.

Action	target	actual	Comment / update
ACTION: MA to organise a change of date for the AC meeting in January to accommodate arrival of new Members.	asap		

8.5 **Risk Register:** Following the recommendation in the AC minutes it was agreed that a new risk be added to the strategic risk register regarding the impact of the delays in appointing new Board Members. The Board approved the draft prepared by the CEO.

8.6 It was agreed that no. 3 on the risk register should be amended to reflect a higher level of risk.

Action	target	actual	Comment / update
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ACTION: CEO to make agreed changes and amendments to the Strategic Risk Register	asap		
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9. CEO UPDATE

- 9.1 Further to the CEO's update and draft letter to the Scottish Government regarding the delay in the appointment of Members, there was some discussion over the content in the letter. The Chair agreed that the CEO make the tweaks she felt necessary and both the Chair and CEO would agree the circulation list at the Scottish Government. It was also agreed that the letter will be published.

Action	target	actual	Comment / update
ACTION: CEO to amend the draft letter to go to the SG regarding Member appointments and arrange with Chair to circulate.	asap		

10. GOVERNANCE

- 10.1 **Governance Arrangements document:** the document was discussed and several amendments were requested.

Action	target	actual	Comment / update
ACTION: CEO to make amendments to the Governance Arrangements document and bring back for approval.	next available Board mtg		

- 10.2 **Revised Standing Orders:** There was a discussion around the abstention from voting and whether this should be allowed or not. It was agreed that the Standing Orders would specify that 'Members should not normally abstain from voting'. There were no further requests for amendments.

Action	target	actual	Comment / update
ACTION: CEO to make amendments to Standing Orders document and bring back for approval.	next available Board mtg		

- 10.3 **Code of Conduct:** There were no further changes to the document which was approved.

- 10.4 **HR Strategy:** The Members approved the HR strategy and recorded they were pleased to see the strategy now in place.

- 10.5 **Staff Governance:** The Members approved the paper which outlined the proposed approach and approved the Staff Remuneration Committee's Terms of Reference. As the SLCC is too small an organisation for a staff governance sub-committee it was agreed that the Remuneration Committee would stand on its own, and staff governance matters be reported to the Board.

- 10.6 **Health & Safety Update:** The Health and Safety Statement was approved. The F&CSM reported that the Royal Bank of Scotland had carried out a health and safety audit of the SLCC's premises and would be providing a report to the SLCC by the end of the following week. The report will form the initial stage of the Health and Safety annual process. It was agreed that this document would come to the next available Board meeting and thereafter a decision will be made on how frequently health and safety issues should be reported to the Board.

Action	target	actual	Comment / update
ACTION: F&CSM to provide health and safety audit report to the Board.	next available Board mtg		

11. IT UPDATE

- 11.1 Following meeting with the Scottish Government regarding the inadequate service being provided through the current IT system, the F&CSM reported that the purchasing and provision of a new IT system for the SLCC will be budgeted for in the coming Budget 2012-13.
- 11.2 The F&CSM asked all Members to bring in their laptops to the office on the 5th December so that Scotslite can perform an upgrade in the office.

12. CONSULTATIONS

- 12.1 The CEO suggested that consultation responses are approved by the SMT, however, responses that may have an impact on the SLCC's strategy will be brought to the Board for approval. The Board approved this approach.

13. ANY OTHER BUSINESS

- 13.1 Nothing to note.

14. DATE OF NEXT BOARD MEETING

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

Board Meeting ends 3.15 pm