

**MINUTE OF THE EXTRA BOARD MEETING OF THE SCOTTISH LEGAL COMPLAINTS
COMMISSION**

**AT 8.45am ON THURSDAY 17th MARCH 2016
BY TELEPHONE CONFERENCE CALL**

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

PRESENT:

LAY:

Bill Brackenridge (Chair) (on phone)
Kevin Dunion (on phone)
Ian Gibson (on phone)
Sam Jones (on phone)

LAWYER:

George Clark (in office)
Ian Leitch (in office)

In attendance:

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

Keith MacConnachie (CM)
Neil Stevenson (CEO)

Apologies:

Iain McGrory (Vice Chair)
Fiona Smith
Maurice O'Carroll

Alison Allan (HRM)
David Buchanan-Cook (HO)

Abbreviations used:

F&CSM – Finance and Corporate Services Manager
HI – Head of Investigations
LSS – Law Society of Scotland
SGvt – Scottish Government

CM – Clerking Manager
HO – Head of Oversight
FoA – Faculty of Advocates

1. Welcome

- 1.1 The Chair welcomed everyone to the meeting and thanked everyone for agreeing to the extra meeting today which is noted as being conducted by a combination of telephone conference call and in presence in the office.
- 1.2 The Chair advised that the purpose of the meeting today was to discuss the substantive comments received on the Budget consultation process, and have an initial discussion on aspects of the Operating Plan and proposed Strategic Plan which would affect the budget and the key decisions being made today.
- 1.3 The Chair also reiterated that the timing of this additional meeting was due to the revised timescale imposed by SGvt as they are entering into a Scottish Election in May, in that, our final documents now need to be laid before Parliament before Thursday 24 March 2016. With this in mind the Board are being asked to approve the proposed draft Budget, and share initial views on the Operating Pan and Strategic Plan in particular where they link to budget
- 1.4 The Chair advised that the meeting was still quorate, as there was a majority of lay Members (4) to legal Members (2).
- 1.5 The CEO reminded the Board that approval of the budget was a function that could not be delegated to Board, and so if amendments were to be made clear, specific and precise direction would have to be given to the staff.
- 1.6 The Chair reminded Members that as per the Board's discussion at their meeting from 26 January 2016, whereby Members agreed to the Chair's request for approval to deviate from normal standing orders and allow this meeting to be chaired remotely, this would be how the meeting would proceed today.

2. Apologies

- 2.1 The Chair advised that apologies had been received from Iain McGrory, Fiona Smith, Maurice O'Carroll, Alison Allan (HRM) and David Buchanan-Cook (HO).

3. Approval of Budget and Discussion on Comments received

- 3.1 The Chair checked that all Board members had received and read the 10 consultations responses, these having been sent by the CEO in two separate emails. The Chair also noted that a detailed summary and thematic review of the responses had been received and read.

- 3.1 The Chair advised that the CEO would give a short synopsis of each of the submissions received both from individuals and organisations to the Consultation process, then the Chair would seek approval from Members as to whether or not they considered these submissions to be substantive comments affecting the draft Budget for approval. It was noted that at the meeting of the 29 March the Board would again be looking at each individual response and the summary in relation to other changes to the Operating Plan and Strategy (which did not affect the budget). Much of the detail was more detailed and helpful for those deliberations, even if not relevant to today's discussion on budget. Members agreed with this format and process.

Responses received from:

- 1 Alan Matthews (Solicitor – small firm)
- 2 Johnston Clark (Managing Partner – Blackadders – large firm)
- 3 John Clyde (Solicitor – McVey & Murrice – mid-sized firm)
- 4 Brian Montgomery (Complainer)
- 5 The Scottish Government
- 6 The SLCC Consumer Panel
- 7 The Law Society of Scotland (on Budget and Operating Plan)
- 8 The Competition and Markets Authority
- 9 The Faculty of Advocates
- 10 The Law Society of Scotland (on Strategy Plan)

- 3.2 It was noted that two submissions indicated that they were in response to the Article from the Journal, rather than in the actual consultation process. These have been included for transparency and completeness and the CEO advised that we will contact the authors about whether or not they wish them to be included in the published responses. However, for the purposes of today's meeting they form part of the material on which today's decision will be based.

- 3.3 The Chair handed over to the CEO to present on each submission individually.

- 1 Alan Matthews (Solicitor – small firm) – no substantive comments on budget or levy. Members noted the comments received.
- 2 Johnston Clark (Managing Partner – Blackadders – large firm) – no substantive comments, overall content with the content of the proposed budget with regards to the containment of the levy, though they did comment on the use of reserves as “disguises a substantial real increase in expenditure at a time when many other public sector entities, but who are funded by taxpayers, are obliged to make cuts in real terms”. It was noted that whilst the comments were not in accordance with the financial paper they were helpful comments from the respondent. Members noted the comments on Strategy which are challenging the use of reserves and note that a formal response would be provided. The CEO reiterated that he would offer to meet with individuals personally to discuss points raised.

- 3 John Clyde (Solicitor – McVey Murrcaine – mid-sized firm) - no substantive comments on budget or levy, main comments are in relation to high volume of conveyancing complaints and these in relation to the quality of service provided by solicitors and the minimum standards which apply. The Chair acknowledged that some interesting points have been raised, however Members agreed that a 'standard' is a standard and it should not matter how much one pays for a service the standard that applies should be the same. Again, the CEO indicated he would meet with the individuals to ensure these ideas informed our thinking.
- 4 Brian Montgomery (Complainer) – it was acknowledged that whilst it was good to see engagement from a complainer about our process there were no substantive comments on the budget or levy.
- 5 The Scottish Government – no substantive comments about the budget but they do note with regards to the “outlines of both short and long term efficiencies which has been reflected in your proposed levy to the profession and has resulted in a modest increase being proposed for your members in 2016-17.” Members noted the comments on both the Strategy and Operating plan and note that a formal response would be provided.
- 6 The SLCC Consumer Panel - no substantive comments on budget or levy and that most of the comments were again on the Strategy and Operating Plan, Members noted the comments and agreed a formal response should be provided. If anything, comments were more likely to lead to increases than decreases in cost, and that was not seen as appropriate post-consultation and without fuller time for consideration.
- 7 The Law Society of Scotland (on Budget and Operating Plan) – it was noted there were a number of substantive comments to the proposed budget and levy, in particular “substantially increase its budget by 7%.” and how this relates to the core statutory function of the SLCC. Members acknowledged that a number of interesting points have been raised by the LSS both on the draft Budget and the Strategy and Operating Plans. However, there seemed to be a misunderstanding that costs related to projects, and not the issues set out on the first page of the budget consultation paper. Thus, whilst the Board felt that many changes, amendments, and deletions may be accepted to the Operating Plan and Strategy based on this helpful feedback at the meeting on 29 March, even if everything was accepted there would be no material change to the budget, levy of reserves position. Members also agreed they would like to see a formal full rebuttal of the substantive issues raised needed addressed and responded to in detail.
- 8 The Competition and Markets Authority – no substantive comments on budget or levy. However, Members noted the comments received in relation to the impact of ABS will have and also the potential “introduction of a new fee structure for Approved Regulators under the Legal Services (Scotland) Act 2010.” Members noted that these points will need addressed in future budgets as the new fee structure is approximately 2-3yrs away from implementation. The CEO would like to consider the ABS point under a general discussion once all the comments have been considered, this was agreed by Members. Members also agreed a formal response would be provided.
- 9 The Faculty of Advocates – no substantive comments on budget or levy. However, it was noted there were a number of substantive and helpful comments, in particular about our statutory function, a particular previous decision and appointment of Members in making these decisions. Again, whilst the Board felt that many changes, amendments, and deletions may in due course be accepted to the Operating Plan and Strategy based on this helpful feedback, even if everything was accepted there would be no material change to the budget, levy of reserves position. Members also agreed they would like to see a

formal full rebuttal of the substantive issues raised need addressed and responded to in detail.

- 10 The Law Society of Scotland (on Strategy Plan) –Members noted this was the 2nd submission of substantive comments from the LSS in response to the draft Strategy and Operating Plans. The Chair acknowledged that some interesting points have been raised and Members agreed that a full response should be provided in detail. Again, nothing provided a convincing case for a change to the budget, levy or reserves position, even if accepted.
- 3.4 The CEO gave an overview of the next stage in the process in relation to the publication and response to the individual responses.
- 3.5 ABS - The CEO advised that in relation to the points raised in the substantive responses about ABS (in particular, by the LSS and the CMA) and subsequent discussion the position has changed somewhat.
- 3.6 We had sought initial views on the levies we may, in due course, need to set under powers in the Legal Services (Scotland) Act 2010. The legislation places new duties on us from the moment an 'Approved Regulator' is authorised, but requires us to consult with the 'Approved Regulator' on the setting of fees (meaning no levy model could be finalised until after such time as our new responsibilities would have started). To ensure we can act promptly it was seen as valuable to gain feedback on our initial thinking, and we are now considering responses. However, this version of the budget contains no allowance for any fee that may, in due course, be generated if an 'Approved Regulator' is authorised, and likewise contains no spend allocated to set-up and operating costs for those new responsibilities which could fall on the SLCC if an 'Approved Regulator' is authorised. Government had recently indicated the SLCC would be given good notice of implementation, and would be able to make better projections at that point. Although this is a late change, because income and expenditure was matched (the fee originally being projected relating to the costs being projected) it was simple to make the change and did not affected other key issues we had consulted on. It was felt this was a clear and specific direction. After discussion it was agreed that the budgetary line in relation to ABS for £25k be removed from both income and expenditure, this was fully agreed by Members. Members agreed that it was reasonable to remove this figure and not prejudice anything to the detriment. The F&CSM should amend the draft budget to reflect the discussion today.

Action	Owner	Due Date
The F&CSM to amend the draft Budget in light of the discussion today, in relation to ABS income and expenditure.	F&CSM	17 March 2016
The draft Budget to be finalised and laid before Parliament in line with SGvt timescales.	CEO & F&CSM	21 March 2016

- 3.7 The CEO reiterated that the timescales for laying the budget before Parliament is early due to the forthcoming Election. The Board agreed to give direction to CEO and SMT to revise the proposed Strategy and Operating Plans with a view to these being updated and discussed at the full Board Meeting on 29 March 2016 as these comments received along with our responses must be published on our website by 31 March 2016. The CEO anticipated that the revised Strategy and Operating Plans be published towards the new Financial year.
- 3.8 Members thanked the CEO for his very clear and concise briefing paper, which they found very helpful. They also thanked the F&CSM for all his work throughout the budgeting process.

- 3.9 It was agreed that all responses received during the consultation process would be published, except where a respondent had exercised their right under the 2007 Act to prevent this, and Members would review the draft responses from the SLCC before publication on the website.

Action	Owner	Due Date
The CEO to draft detailed responses to all of the responses which will be published and were received during the Consultation process, and this to be discussed at the next Board Meeting on 29 March 2016.	CEO	By 29 March 2016
Once draft responses approved by the Board, these have to be published on our website.	CEO	By 31 March 2016
The Board approved the direction of draft Strategy and Operating Plan to be brought back to the next Board Meeting on 29 March 2016.	CEO	By 29 March 2016

- 3.10 The Chair confirmed approval of the proposed budget and budgetary changes and these were agreed by all Members present.

- 3.11 Members recorded their thanks to the CEO and F&CSM on the preparation of the papers as presented today.

4. AOB

- 4.1 With no other business noted the meeting concluded and the Chair called the meeting to close and thanked everyone for their time and a detailed and informative discussion today.

5. Date of Next Meeting

- 5.1 The next full Board meeting taking place on Tuesday 29th March 2016, commencing at **10.15am**, following this will be a Board Development Session will commence after lunch. The next Performance Management meeting will take place at **10.15am** on Tuesday 26th April 2016 at the Stamp Office 10 – 14 Waterloo Place, Edinburgh, EH1 3EG.

Meeting ends 9.50am