

**MINUTE OF A MEETING OF THE MEMBERS OF THE SCOTTISH LEGAL COMPLAINTS  
COMMISSION: 10.15 AM TUESDAY 31<sup>ST</sup> MAY 2016  
Venue: The Stamp Office, 10 – 14 Waterloo Place, Edinburgh, EH1 3EG**

**PRESENT:**

**LAY:**

Bill Brackenridge (Chair)  
Kevin Dunion  
Emma Hutton  
Michelle Hynd

**LAWYER:**

George Clark  
Ian Leitch  
Amanda Pringle

**In attendance:**

Alison Allan (HRM) (Items 1-25)  
John Ferrie (F&CSM) (Items 1-15)  
Caroline Robertson (HI)  
[REDACTED] (Secretariat, minutes)

David Buchanan-Cook (HO) (Items 1-25)  
Keith MacConnachie (CM) (Items 1-25)  
Neil Stevenson (CEO) (Items 1-26 & 28)

**Apologies:**

Ian Gibson  
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  
RPO – Relevant Professional Organisation

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, in particular the 3 new Members to their first formal Board Meeting. The Chair noted that there were a substantial amount of items and papers to be considered today.

**2. Apologies**

2.1 The Chair advised that apologies had been received from Ian Gibson and Sam Jones and the meeting was still quorate and there was a majority of lay members.

**3. Declaration of Interests**

3.1 It was noted the standard Declarations of interest were declared by George Clark, Ian Leitch and Amanda Pringle in relation to any pecuniary interest with regards to any budget discussions.

**4. Management Information & KPIs**

4.1 Enquiry & Eligibility - The HI spoke to the paper presented and advised that the up to date numbers of cases still to be allocated, in Eligibility were 125 and 34 at Investigation stage. The HI advised that it would appear Eligibility cases have plateaued, though Investigation cases have increased slightly and these files are all waiting on responses to requests from files etc. Members again reiterated their concern about the high figures sitting within Eligibility stage.

- 4.2 **Mediation** – Members noted the figures as presented and acknowledged the recent success of a Skype mediation.
- 4.3 **Investigation** – The HI advised that as previously noted there were currently 34 cases awaiting allocation and at mid-May 43% of the cases which have not settled at Investigation, were transferred to Determination stage. Members again reiterated their concern about journey time for each of the cases at various stages and enquired as to whether we were any closer to receiving a ‘start/stop the clock’ report. The HI advised that at the moment Newpro did not allow this reporting facilitate but the new Balanced Score Card would look at what information could be presented. The HI shared an example of how our English counter-part record their 52-working-day-rate target; however, it was noted that they suspend cases at various stages, so they are not reflective of actual journey time of a case.
- 4.4 **Determination** - The CM advised that they were still working on reducing the number of cases in the system which was greater than 6months, which had reduced slightly this month. The CM also advised that there had been a slight increase in the number of cases which are within Determination stage. The CM also advised that a plan was in place for the 4 Members who would be demitting from office on 31 December 2016.
- 4.5 **WIP** – Members noted that the figures as presented.
- 4.6 **Total Case Lifetime Averages** – Members noted the figures presented.
- 4.7 **SMT Action Plan** – The CEO spoke to the paper presented and suggested that the next Agenda paper on proposed reform options for Eligibility cases also be taken into account along with the SMT’s proposed Action Plan. The Chair agreed with this proposal.
- 5. Radical Reform Options for Eligibility to tackle Unallocated Cases/Throughput**
- 5.1 The HI spoke to the paper presented and explained for the purposes of the new Members the background to this paper. The HI advised that this paper is considering the current process in place for assessing Eligibility cases, which now takes into account recent Appeal case advice and has lengthened the process immensely and to the detriment of our case Journey timescales.
- 5.2 Members suggested that we erred on the side of caution with regards to the proportionality of time spent on Eligibility cases and if there is a requirement to challenge advice and changes to process then we should be speaking with SGvt to request changes to the Act, as it was envisaged in the setting up of the SLCC we would provide a quick and effective solution to complaints and that the Eligibility stage of the process was seen to be a ‘sifting’ process and it would appear this is not what actually happens.
- 5.3 Members requested that in the next update paper they would like it to include a history of guidance from the Court, what the impact of these proposed changes would have on complaints and the link between the proposed process change and the Management Information and what the impact risk will be to this proposed change in process.

Action	Owner	Due Date
SMT to include in the update paper the points raised by Members, ie history of guidance from Court, what impact these proposed changes would have on complaints and the link between the proposed process change and the MI.	SMT	26 July 2016

- 5.4 Whilst Members did acknowledge the proposed change to process have the potential to reduce the average Eligibility timescale down from the approximate 23 weeks to approximately 8 weeks, they still considered this to be a high risk change to process.

- 5.5 The CEO reiterated that if it was agreed that there should be a change to process then this could require a change to our Rules and subsequently a consultation would need to take place regarding this change.
- 5.6 Members confirmed that they wished the executive to further develop potential changes and recommendations along the lines suggested in the paper. They reiterated the need to clearly articulate the change, in that it was to increase the efficiency of the process and requested that an update be presented to the Performance Call in June, with an update paper being presented to the August Performance Call meeting. The Chair requested that in order for Members to fully consider this paper in advance of the meeting, it should be sent out separately and in advance of the normal board paper timescales.

Action	Owner	Due Date
SMT to revise option proposal paper in relation to Eligibility process and share an update with Members at the June Perf Call Meeting, with a view this being discussed in detail at the August Board Meeting. Board requested that the full paper be circulated well in advance of the August Performance Call meeting date to allow Members to consider the revised options in detail.	SMT	28 June 2016 & by 5 Aug 2016?

- 5.7 The CEO reiterated that within the 2014 Rules amendment, any issue(s) can be rejected as FVTWM at investigation stage and this supports the views of Members and the requirement for some movement towards statutory change.

**6. Balance Scorecard**

- 6.1 The CEO spoke to the paper presented and sought Members views and approval for the development of a pilot balanced scorecard. The Chair advised that he found the layout clear and concise as it is a dashboard but felt that it should also include reference to Finance and HR issues.
- 6.2 Members enquired as to whether there was an additional cost implication to this layout of information. The CEO advised that most this work has already been included in the original costing, however, additional support may be required and there will be a one-off cost for this extra work. The Chair advised that personally he felt, it was appropriate for this information to be provided quarterly. However, it was suggested that there also should be a strategy paper which drills down to operational levels, which at the moment doesn't link or show overarching aggregated measures. For example, Members still would like to see a separate paper on Eligibility report as this would be regarded as a special measure.
- 6.3 It was noted that this was still not a complete 'balanced scorecard' which related inputs, productivity and outputs, but rather a halfway step between the old management data and a balanced scorecard. The Board noted that they wished to see what a full move to the latter model would look like.
- 6.4 The CEO agreed that there was a further need to develop other indicators and include the use of visual indicators, ie red, amber and green and confirmed that a revised layout will be provided at the Performance Call in June, with a view to presenting quarterly figures at the following Board meeting in July. It was suggested that the revised scorecard should also include how it interplays with People, Process and Performance; this would be helpful going forward, as this was not clear from the layout presented today. It was agreed that the CEO would revise the layout accordingly.

Action	Owner	Due Date
SMT to revise Balance Scorecard to include interplays with People, Process and Performance.	CEO	

**7. Appeals Update**

- 7.1 The CM spoke to the paper presented and advised that to date there had been 4 new appeals, one on a Determination decision and 3 on Eligibility decisions, received to the SLCC. The CM gave Members an overview of the current status on prospects of these new appeals. Members also noted the update regarding the current ongoing Appeals.
- 7.2 Members also noted that they still awaited the Court’s judgement in relation to the Appeal Hearing which took place earlier this month and depending on this judgement might have an impact on our classification of complaints.
- 7.3 Members noted that the counter offer to the final account of expenses in relation to one particular appeal case, was agreed and expenses paid, thus concluding this matter.
- 7.4 Members requested that where a Member decision is appealed they would like to know whether or not they have deviated from the Eligibility recommendation given to the Member to consider. The Chair also requested that layout of the paper be revised slightly and also include the use of ‘plain’ English always. The CM explained the Application for Leave to Appeal being a 2 stage process and gave an overview of the legalistic terms used in the paper.
- 7.5 Members thanked CM for the update and explanation to the paper as presented.

Action	Owner	Due Date
CM and CIM2 to slightly revise layout of Appeals paper and include ‘plain’ English.	CM & CIM2	26 July 2016

**8. Finance Report**

- 8.1 FMR – 10 months to 30 April 2016  
The F&CSM spoke to the FMR papers presented and advised the expenditure for the month was on track for yearend, however, there had been an increase in staff costs which Members were aware of. The F&CSM also advised that he was anticipating a variance to Members expenses during the next few months whilst new Members are trained. However, he was expecting the figures to be close to budget. This in turn will result in a reduction in our reserves provision for yearend. The F&CSM confirmed the SMT were content with the figures as presented.
- 8.2 Members sought clarification on the underspend within Mediation and wondered if this was down to a particular reason. The F&CSM advised this is probably because resolution is offered at all stages of the process, rather than just at the Mediation stage.
- 8.3 Members reiterated that they still wished to see a separate budgetary line relating to the costs of the use of Reporters and the F&CSM agreed this could be done.
- 8.4 The F&CSM also gave an overview of the Balance Sheet figures as presented along with the FMR and reiterated that an update paper on the Pension liability will be presented to the July Board meeting.
- 8.5 Members sought clarification as to when our current lease provision was due to expire and the F&CSM confirmed it was September 2018. The F&CSM confirmed that a review had taken place in 2012 and the SMT were considering a review of our lease provision, again this would be brought to a future Board meeting for Members to consider whether the F&CSM could source other lease options. The HRM reminded Members that they should be mindful to consider staff and the impact this will have on staffing levels and skills base within the organisation. The Chair requested that this risk is taken into account whilst considering options. It was agreed that the F&CSM would draft a timetable to take into account the timescales and risks involved with the lease expiry date (Sept 2018). The CEO reiterated the need for Board involvement at various stages of the lease process.

Action	Owner	Due Date
F&CSM to draft a timetable to take into account the timescales and risks involved with the lease expiry date (Sept 2018).	F&CSM	

8.6 The Chair thanked the F&CSM for his update and explanation to the papers presented.

**9. Update on Progress against 2015/16 Operating Plan**

9.1 The CEO spoke to the paper presented and Members agreed with the RAG style of reporting and Members approved this presentation approach for future reporting.

**10. Finalising the Strategy and Operating Plan**

10.1 The CEO spoke to the paper presented and Members noted the LSS's late submission of comments to the consultation on the Draft Strategy and Annual Plan 2016/17. Members acknowledged that it was not the role to set standards for practitioners but they could give wider advice. It was noted that our other Family Law advice was being taken forward as best practice.

10.2 Members approved and agreed the Strategy (2016-2020) and Operating Plan for 2016-17, and delegated final typographical changes to the executive.

**11. Legislative Change Paper**

11.1 The Board noted their workshop discussion the previous day on the legislative change paper, the key themes of that discussion being:

11.1.1 A 2-4 page executive summary is created focussing on key issues

11.1.2 This should set out the key high level points (perhaps 4-6) the SLCC believe the government should deliver in new legislation

11.1.3 The points should be specific –moving from a reflective tone in the current paper to specific recommendations for improvement

11.1.4 The points should be framed around what is best for the 'customer' – this being BOTH consumers AND lawyers, and draw on available evidence

11.1.5 This work should be done first, to get a clear, concise and compelling message – the longer paper can then be restructured around the new clearer approach (the Board noted there is still a value to commenting on some wider issues and citing a wide evidence base)

11.1.6 The 2-4 page summary should be developed, and a conference call held to discuss it, within around a fortnight.

11.2 It was agreed that the CEO would draft a summary and arrange a Conference Call with Members to discuss this in more detail.

Action	Owner	Due Date
CEO to draft a summary of the output from the Member Dev Session and arrange a Conference Call with Members to discuss.	CEO	

**12. Greater Transparency and Accountability – Publishing our Performance Data**

12.1 The CEO spoke to the paper presented and Members reiterated that whilst they agreed with the proposed approach, this information should be 'user' friendly and accessible by all. The CEO confirmed this feedback would be taken on board for the production of 2016/17 data.

12.2 Members agreed with the CEO's proposal and confirmed that this should apply to the forthcoming year 2016/17.

**13. Time Limit Proposal Update**

- 13.1 The HO spoke to the paper presented and Members approved the delay of the implementation of any changes to the SLCC's Rule on time limit and reconsider this matter at the July Board meeting.

Action	Owner	Due Date
Members to reconsider the Rule on time limit at the July Board Meeting.	HO	26 July 2016

*11.50am comfort break 11.55am meeting resumed*

**14. Complaint Levy**

- 14.1 The CM spoke to the paper presented and explained that during a recent discussion at the DC Chairs meeting, they suggested a proposed revision to the Complaint Levy tariff. Members raised concern regarding the potential risks to the SLCC if firms/practitioners were unable to pay these fixed fees. Following a discussion it was agreed that the CM would revise the Complaint Levy Policy, taking into account the discussions to the proposals to be reconsidered at the July Board Meeting.

Action	Owner	Due Date
CM to revise the Complaint Levy Policy in light of Members agreeing to the proposed changes to the Complaint Levy tariff and update at the July Board Meeting.	CM	26 July 2016

**15. Consistent Decision Making**

- 15.1 The CM spoke to the paper presented and the Members noted the progress to date on 'house rules'. The CM sought approval from Members to rebrand this to 'Decision Guidelines', this was agreed by Members.
- 15.2 Members requested that an update be brought back to the July Board.

Action	Owner	Due Date
CM to update Members on Consistent Decision Making at the July Board Meeting.	CM	26 July 2016

- 15.3 The Board noted their workshop discussion the previous day on the Board Training and Development Plan, where they discussed the proposal to have [REDACTED] deliver 'Oral Hearing' and 'Reasoning' training to Members. This was agreed by at the workshop and the Board confirmed this decision for the purposes of the Minute.

- 15.4 It was also agreed that the CM would confirm dates and times with [REDACTED] and Members.

Action	Owner	Due Date
CM to firm up arrangements for Board Training Workshops on Reasoning and Oral Hearings and confirm dates with Members.	CM	10 July 2016

**16. Consumer Panel Update**

- 16.1 The HO spoke to the paper presented and confirmed that the Chair of the Consumer Panel had been invited to attend the July Board Meeting.
- 16.2 The CEO reiterated that the Consumer Panel are keen to support the Board.

*12.15pm SMT apart from the HRM left the Meeting*

**17. CEO Pay Remit 2016-17**

- 17.1 The HRM spoke to the paper presented and Members discussed, agreed and confirmed the proposal presented by the HRM.

*12.20pm the HRM left the Meeting and the CEO re-joined*

**18. Updated Risk Register**

- 18.1 Members noted the updated Risk Registered as presented by the CEO.

**19. Board Actions Registers**

- 19.1 The Chair and CEO provided Members with an update on the actions register. Members noted the updates and all cleared items had been removed from the Actions Register.

**20. Minutes of Meetings from 27 March and 26 April 2016**

**20.1 27 March 2016**

The Minute of the Board Meeting was approved as read.

**20.2 26 April 2016**

The Minute of the Board Meeting was approved as read.

**21. Chairman's Report**

- 21.1 Members noted the meetings undertaken by the Chair.

**22. Date of Forthcoming Meetings and Proposed Dates for 2017**

- 22.1 The Chair confirmed that the proposed Performance Call scheduled for 25 October 2016, would be converted to a formal Board Meeting.

- 22.2 Members discussed the option of changing the dates for 2017 as some were compromised with attending consistently on the planned Board/Performance Call dates scheduled for 2017. It was agreed after discussion that for 2017, Performance Calls would take place on Mondays, with full Board Meetings taking place on Tuesdays every alternate month. However, where Board Meetings were scheduled on a Tuesday, there would be a Board Development Session on the Monday afternoon in advance of a full Board Meeting.

- 22.3 It was agreed that the Secretariat would circulate a revised copy of the 2016 and 2017 schedule of Meetings.

Action	Owner	Due Date
Secretariat to circulate the revised Board and Performance Call dates for 2016 and confirm new dates for 2017 with Members and SMT.	Secretariat	3 June 2016

**23. Policies Update and Approval**

- 23.1 Members noted and approved the slight revisions to the following Policies:  
23.1.1 Governance Arrangements  
23.1.2 Standing Orders

**24. AOB**

- 24.1 No other business noted.

**25. Chief Executive's Report**

- 25.1 The CEO spoke to the paper presented and Members noted meetings undertaken. Members sought clarification on the meeting with the Solicitors who took part in the consultation process. The CEO advised that this was viewed as a positive and valuable meeting.

- 25.2 Members thanked the CEO for this update to the paper presented.

**26. Assurance on CEO's duties in relation to the SMT and Staff**

- 26.1 The Board noted and agreed to discuss this paper in private and the Secretariat left the Meeting to allow the CEO to discuss this with Members.

*12.35pm the Secretariat left the Meeting*

**27. Date of Next Meeting**

- 27.1 The next **Performance Management meeting** will take place on **Tuesday 28 June 2016 at 10.15am**. There will be a **Board Development Session** on **Monday 25 July 2016**, commencing at **2pm**, with the next full **Board meeting** taking place on **Tuesday 26 July 2016 at 10.15am**; all meetings will take place in the Stamp Office 10 – 14 Waterloo Place, Edinburgh, EH1 3EG.

*Board Meeting ends*