

**MINUTE OF A MEETING OF THE MEMBERS OF THE SCOTTISH LEGAL COMPLAINTS
COMMISSION: 10AM TUESDAY 25th SEPTEMBER 2018
Venue: The Stamp Office, 10 – 14 Waterloo Place, Edinburgh, EH1 3EG**

PRESENT:

LAY:

Jim Martin (Chair)
Michelle Hynd
Emma Hutton
Sarah McLuckie
Morag Sheppard

LAWYER:

Denise Loney
Amanda Pringle
Kay Springham

In attendance:

Neil Stevenson (CEO) (Items 1-20)
Caroline Robertson (HI) (Items 1-6)
John Ferrie (F&CSM) (Items 7, 8 & 9)

[REDACTED] (secretariat – minutes) (Items 1-20)
[REDACTED] (CIM3) (Items 1-4)

Apologies:

Sara Hesp

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
SGvt – Scottish Government
ABS – Alternative Business Structures
IMT – Investigations Management Team
JT – Journey Time
WIP – Work in Progress

CM – Clerking Manager
HO – Head of Oversight
DC – Determination Committee
LSS – Law Society of Scotland
FoA – Faculty of Advocates
CIM – Case Investigations Manager
FO – Facilities Officer
OH – Oral Hearing
CoS – Court of Session
WT – Working Time

1. Welcome

1.1 The Chair welcomed everyone to the Board meeting and thanked everyone for their input into yesterday's development session.

2. Apologies

2.1 The Chair advised that apologies were received from Member, Sara Hesp.

3. Declaration of Interests

3.1 No other declarations of interest were made other than the standard declarations of interest declared by Denise Loney, Amanda Pringle and Kay Springham in relation to any pecuniary interest with regards to budgetary discussions.

4. Update on Progress with Process Efficiency

4.1 The Chair asked that the HI give a brief overview of current trial Sprint processes within the update provided.

4.2 The HI spoke to the paper presented and as requested gave a brief overview of each stage of the process. Members noted figures presented by the HI and CIM3. Members sought assurance that all CIs were on-board with the new process. The HI advised there had been very positive feedback from all staff involved in the trials. CIM3 also advised the Eligibility trial would now be adopted for all eligibility CIs and rolled out from 1st October and there would be two training sessions for all CIs. Members raised concern regarding the language used in the trial template documents at the DC stage. The CEO

thanked the Board for this feedback, which has been taken on-board and will allow the working party to review templates prior to implementation. It was noted the trial data was showing positive results thus far. Members wondered what the timeframe would be on final outcome of these trials. The CEO thought that Members should see results November/December, with an overall reduction in WIP seen during the next Quarter onwards.

- 4.3 The Chair sought clarification on the Mediation Sprint 'opt out' trial due to commence next month. CIM3 explained the current Mediation process and the different option with the proposed trial. Parties will be notified that the next stage of the process is Mediation and be provided with a set of available dates, if parties do not agree to a date, they will be effectively 'opting out' of the Mediation process. Members sought assurance that resources were available for this 'trial' and the HI confirmed they were.
- 4.4 Members suggested that the revised templates be also reviewed by the Consumer Panel and to ensure that 'plain' English is used throughout the different stages. The HI confirmed this could be done. Members were advised the Consumer Panel was not due to meet till November, which is after the roll out date, so this may be done by email. The CEO reminded Members further updates would be provided at the October meetings of Audit Committee and Board. It was agreed that at this meeting Members should give thought to considering the effectiveness and impact of all trials on the decision makers, ie Board Members when considering cases at DC.

Action	Owner	Due Date
CEO to ask the Consumer Panel to review the revised trial templates for 'plain' English etc and provide an update at the October Board Meeting.	CEO	By 30 October 2018

- 4.5 Members noted they would also receive an update on the Predictive Model at the October Board Meeting.
- 4.6 The Chair thanked Members, CEO, HI and CIM3 for their input to the paper presented.

10.42am CIM3 left the meeting

5. Management Information to 31 August 2018

- 5.1 The HI spoke to the paper presented. Members noted that WIP was again still high. The HI explained Mike Titchen was reviewing the Predictive Model figures to reflect the current future predictions. Members noted that WIP was not provided for each stage of the process and felt this would be helpful going forward. The CEO noted this was provided in the quarterly management data.
- 5.2 Members sought assurance that WIP would reduce as a result of the new Sprint 'trials' and it was anticipated it would. The HI reiterated the pre-Eligibility stage was where the backlog lay.
- 5.3 The Chair thanked the HI and CEO for their input to the paper presented.

10.53am HI left the meeting

6. Key issues briefing

- 6.1 The CEO spoke to the paper presented and gave a short overview and update on:
- 6.1.1 Joint work with LSS on interim improvements to the complaints system, the next stage was the CEO meeting with the LSS Regulatory Committee on this topic.
- 6.1.2 ABS Update, the CEO advised that approval has been received on the completed SGvt funding paperwork and monies should be received later this week. The CEO also updated Members of the different stages of their involvement in this process, for example, they may make decisions on Policy and, in due course, also as Members of a different type of Determination Panel for 'Approved Regulator' complaints. They may also be making decisions on individual cases against firms, and individual 'handling complaints', but these would be very similar to current cases. It was noted that full training and advice would be given immediately beforehand

6.1.3 **Tender for Legal Services**, Members noted the results of the Tender process, and a specific issue and concern they wished fed back to providers. The CEO confirmed all three successful bidders would be in attendance at a roundtable event next week and that they would each receive quarterly feedback in performance separately.

6.2 Members thanked the CEO for his update noted the rest of the paper as read.

11.10am F&CSM joined the meeting

7. Financial Management Report

7.1 The F&CSM spoke to the paper presented and apologised for the omission of a copy of the Balance sheet from the circulated papers.

7.2 **FMR – 1 month to 31 August 2018** – Members noted the total income received from Annual Subscription Levies received in July amounted to £3,322,912. Expenditure for the month shows an overspend of approximately £5k in Direct staff costs. It was noted the recruitment has commenced on the two new Administrative roles with an anticipated start date of mid-end November. It was noted that Reserves for end June 2019 were anticipated to be in the region of £391k. Members noted monies were due to be paid by SGvt in relation to ABS funding and the HR Consultancy contract had come to a natural end of contract and it was agreed by SMT this would not be renewed.

7.3 **Balance Sheet** – Members noted the narrative in the papers presented.

7.4 The CEO advised that both new Directors have confirmed their appointment start date for 10 December 2018.

7.5 The Chair thanked the F&CSM and CEO for their update and explanation to the figures presented.

8. Draft 2017/18 Annual Accounts

8.1 The F&CSM spoke to the paper presented and Members noted the minor layout presentational adjustments made by the Auditors.

8.2 Members noted some typographical changes and these were noted by the CEO to amend prior to the final approval and sign-off by Board at the October meeting. It was agreed that Members would forward any further suggested amendments to the CEO by the end of this week.

Action	Owner	Due Date
Members to forward any further typographical changes to the Annual Accounts to the CEO by 28 September to ensure that the final version is presented to the October Board Meeting.	All	By 28 September 2018

9. Budget Assumptions and Operating Plan 2018/19

9.1 Members noted the paper as read and the CEO reiterated that the SMT were seeking an early input on Budget assumptions and to share an early view of the new layout for the drafting of the Operating Plan.

9.2 Following discussion it was agreed that the F&CSM would advise of the cost per case figures at each stage of the process as this will help facilitate a more detailed discussion and will put together as detailed a budget as possible. This will include looking at various scenarios on Levy income, for example, differential levies, building on our trends, rather than on supplied LSS data. This will allow the Board to make an informed decision. It was agreed that the Chair and F&CSM would meet to discuss, and that three different scenarios would be presented to the October Board Meeting for discussion.

Action	Owner	Due Date
F&CSM to prepare and present three different funding scenarios for the next Board Meeting.	F&CSM	By 30 October 2018
F&CSM to meet with the Chair to discuss budget scenarios.	Chair & F&CSM	By 30 October 2018

- 9.3 Members thanked the F&CSM and CEO for their update and explanation to the paper presented.

12noon F&CSM left the meeting

10. Complaint Levy

- 10.1 Members noted the paper presented. Members discussed the limited ability to in exceptional circumstances award a 'nil' levy and it was agreed that this should remain in the new proposal. Members were also keen to ensure the communication of this new policy was done as a matter of urgency. The CEO confirmed that communications were ready to go out as soon as Board approved the change. Following discussion and to ensure fairness on the application of this interim policy Members agreed:
- 10.1.1 the current Complaint Levy Policy would be suspended from 30 September 2018,
10.1.2 the new interim Complaint Levy Policy be implemented and applied from 1 October 2018.
10.1.3 the professional bodies would be advised through various mediums of communication of this intended change to policy.
10.1.3 Members would review this interim policy at the March Board Meeting.
- 10.2 The CEO reminded Members that DCs still have the discretion to apply the different levels of sanctions during the transition and implementation of this policy.
- 10.3 Members also agreed that to ensure complete fairness to the professional bodies this interim policy will be issued to them and a Communications plan put in place. The interim policy will apply to all Investigation and Determination Reports issued from 1 October 2018, with a transition period to be applied.

Action	Owner	Due Date
CM to finalise the interim Complaint Levy Policy.	CEO/CM	By 28 September 2018
CM to ensure that all professional bodies are advised of this interim Policy by various communication mediums.	CEO/CM	By 28 September 2018
CM to ensure that the interim Policy applies to all Investigation Reports issued on or after 1 October 2018.	CEO/CM/HI	By 28 September 2018
Members to carry out a review of the interim Policy at the March Board Meeting.	CEO/CM	19 March 2018

- 10.4 The Chair thanked Members for sharing their views on this matter.

11. Assurance Map Update

- 11.1 Members noted the paper as read.
11.2 The AC Chair confirmed this paper, along with the Risk Register had been reviewed by the AC at their July meeting. Members discussed the role of the Legal Chairs group and following this it was agreed that the CEO would recirculate a copy of their current Terms of Reference.

Action	Owner	Due Date
CEO to circulate a copy of the current ToR for Legal Chairs group.	CEO	By 28 September 2018

- 11.3 Secretariat advised that the CM was in the process of setting a date for the next Legal Chairs group.

12. Risk Register

- 12.1 Paper noted as read.

13. Policy Review

- 13.1 Update to Health and Safety statement – Members asked that the last sentence of the introduction be reworded slightly to ensure it included the correct make-up of the H&S Committee. Once this has been clarified Members were content to approve the H&S Policy Statement.

Action	Owner	Due Date
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CEO to ensure the last sentence of the introduction is reworded.	CEO/FO	By 28 September 2018
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14. Board Actions Register

- 14.1 The Chair noted the update to actions 260, 262 and 272 and agreed all other completed actions should be removed from the register.

15. Minutes of Previous Meeting from 31 July 2018

- 15.1 The Minute of the Board Meeting was noted and approved subject to a small typographical error to be amended at points 3.1 and 4.2.

16. Chairman's Report

- 16.1 Members noted the paper presented.

17. Chief Executive's Report

- 17.1 Members noted the paper presented.

18. Date of Next Meetings

- 18.1 The Chair advised that the Secretariat would be seeking Member availability for an extra Board Member Workshop in November.
- 18.2 Members noted the dates of the next meetings as:
- Board Development Session will commence at 2pm on Monday 29 October 2018
 - Board Meeting will take place at 10am on Tuesday 30 October 2018

19. AOCB

- 19.1 Regulatory Conference – A Pringle advised that she had attended this conference as a Member of the Board, which she found helpful and informative. Copies of the slides are available to be shared with Members if required.
- 19.2 Clarification was sought on the use of the terminology 'lawyer' – Members sought clarification that the CEO was aware of an issue whereby someone who had been registered with the professional body and had been removed, was subsequently still being known as a 'lawyer'. The CEO confirmed they were aware of this matter.

20. Review of the Meeting

- 20.1 With no other business the meeting concluded.

12.45pm Board Meeting ends

