

**MINUTE OF A MEETING OF THE MEMBERS OF THE SCOTTISH LEGAL COMPLAINTS
COMMISSION: 10.10AM TUESDAY 25th JULY 2017**

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

PRESENT:

LAY:

Bill Brackenridge (Chair)
Kevin Dunion
Sara Hesp
Emma Hutton
Michelle Hynd

LAWYER:

Denise Loney
Amanda Pringle
Kay Springham

In attendance:

John Ferrie (F&CSM) (Items 1-25)
[REDACTED] (CIM3) (Items 10 & 11)
Stevenson (CEO) (Items 1-26)
[REDACTED] (secretariat - minutes)

[REDACTED] (HR Manager) (item 10)
Caroline Robertson (HI) (Items 1-25) Neil

Apologies:

Sarah McLuckie
David Buchanan-Cook (HO)
Keith MacConnachie (CM)

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
SGvt – Scottish Government
ABS – Alternative Business Structures
EoY – End of Year
IMT – Investigations Management Team

CM – Clerking Manager
HO – Head of Oversight
DC – Determination Committee
LSS – Law Society of Scotland
HCF – Hybrid Conduct 1st
FoA – Faculty of Advocates
HSF – Hybrid Service 1st
SOC – Summary of Complaint
YoY – Year on Year
FO – Facilities Officer
OH – Oral Hearing

1. Welcome

1.1 The Chair welcomed everyone to the meeting.

2. Apologies

2.1 The Chair advised that apologies had been received from Member, Sarah McLuckie, Keith MacConnachie, Clerking Manager and David Buchanan-Cook, Oversight Manager.

3. Declaration of Interests

3.1 No other declarations of interest were made.

4. Update on Anderson Strathern

- 4.1 The HI spoke to the update presentation and confirmed that the 56 cases which were at liaison have now been agreed with the LSS and are progressing. There has also been agreement with LSS on the 112 cases which were categorised as HCF and were with the LSS as to which ones require re-categorisation, once RECAT has been carried out all parties will need updating. Two Saturday shifts were used to ensure a good head start on this work, and to avoid an impact on production. The remainder of the work would be carried out in normal hours (and therefore would have an impact on production).
- 4.2 The HI reiterated that it was agreed 'in principle' with LSS that the Judicial Review would be withdrawn with no expenses to or by either party, however this has still to be confirmed as withdrawn.
- 4.3 Of the 17 other outstanding Appeals, agreement on resolution 'in principle' has been reached on all cases, again, with no costs due to or by either party, both sets legal advisers are in discussion about the process of how to proceed with these cases. Members suggested that these could be considered administratively by the Court of Session by way of Joint Minute and the HI agreed that this was a proposal that was being considered, once agreed these 17 cases would be prioritised to be dealt with through the system as quickly as possible. The HI confirmed that all parties have now received an update on their case. Risk and exposure to cost remained for the SLCC until these cases were all formally dealt with.
- 4.4 Members noted the continued ongoing positive engagement with the LSS.
- 4.5 The CEO reiterated that the Minister has continued to be updated on the current situation by civil servants.
- 4.6 The Chair acknowledged and thanked the SMT and staff for all the extra work being carried out on this issue.

5. Q4 EoY 2016/17 Long Term Trends

- 5.1 The CEO spoke to the paper presented. Members sought clarification as to whether or not the staff targets were reflective to include preparation of the new style Eligibility Reports, ie in having a standardised approach to the drafting of reports will this help staff achieve the agreed targets resulting more staff 'exceeding' targets. The HI confirmed that it is anticipated it will, thus allowing for constant improvement and review of targets going forward.
- 5.2 Members suggested that information on allocated case trends also be graphed, as this will show improvements on production if the volume of cases being received continues to overtake WIP, this should show productivity increasing. The CEO confirmed that this data could be produced. All data the Board requested was currently being added to the reports, meaning these were growing in size and complexity. The CEO noted that at some point the Board may wish to 'step back' and assess what elements of the data gave it the best insight into performance, and whether other elements could be reduced to avoid too much data masking the big trends. This was very much a Board decision. The Chair confirmed that the key measures they also require are:
- 5.2.1 number of cases coming in, and
- 5.2.2 production in the system.
- 5.3 It was agreed that the number of cases allocated would be shown in graphical format for the next meeting.

Action	Owner	Due Date
CEO to update the Long Term Trends report to include the number of allocated cases for the next meeting.	CEO/HI	26 September 2017

6. Q4 EoY 2016/17 Management Information

- 6.1 The Chair advised that the additional analysis was very helpful in reading the report. It was noted that the number of complaints received YoY comparison was continuing to show an upward trend.
- 6.2 The CEO noted the fall in the last quarters in complaints, which it was hoped might be a levelling out. However, it was confirmed that at the moment the long-term trend still looked to be increasing overall all. Careful monitoring would be required at the end of Q1 and Q2 (prior to the budget consultation) to assess if the lower figures are cyclical variation or a change in the longer term trend.
- 6.3 Members noted the other figures presented within the paper.

7. Q4 EoY 2016/17 Operational Plan Update

- 7.1 In the absence of the HO, the CEO spoke to the paper presented.
- 7.2 The CEO acknowledged that the HO would have highlighted that there had been a number of projects only just completed within the timescale and that he was already working with the Oversight team on trying to phase when projects delivered their outputs more evenly over the course of the year. The Chair enquired as to whether the 3 outstanding Amber projects would be continue and the CEO advised that only one of these projects would not be carried forward

8. Q4 EoY 2016/17 Finance Report

- 8.1 FMR – 12 months to 30 June 2017 – Members noted the figures as presented which were included and discussed in detail during the Board Development discussion on future Operating planning for 2018/19.

9. Q4 EoY 2016/17 Customer Feedback

- 9.1 The CEO provided an update on the paper presented. The Chair noted the response rate, though still very low, had increased to 13.5%. Members also considered whether or not the feedback form was the best way of capturing feedback about the services provided as the response rate continues to be very low. Members suggested it might be beneficial to have a small focus group, which could be co-ordinated by an independent researcher, who in turn invites a sample of cross-section of 'feed-backers' to join the group to discuss specific feedback questions. It was also suggested that the Consumer Panel might have a view/input on how to achieve a better response rate on feedback. It was agreed that the CEO would clarify this with the HO. Members also requested that the next Quarterly Report include the Feedback Questions along with the graph information.
- 9.2 Following a free and frank discussion, it was agreed that the SMT would review the format of the paper, with consideration being given to capturing reoccurring themes to assist with reviewing our processes, ie how many feedback on: 1) the length of time it takes for a complaint to be dealt with our system or 2) the reports use too legalistic language etc. and present a proposed plan for future reporting of Customer Feedback at the next Board meeting. It was noted that actions feed into the Annual Operating Plan (rather than new sets being created quarterly, unless urgent action was needed) to allow for planning and the allocation of resource. A more substantive annual report, linking data to new actions, might be a better option than quarterly report. It was acknowledged that if an individual raises specific questions/points that require a response, this can be done, if they have provided their case reference number, however, this is often difficult as most responses are anonymous.

Action	Owner	Due Date
SMT and FO to review format of Customer Feedback for future presentation to the Board.	CEO & FO	26 September 2017

11am comfort break

11.05am meeting resumed and the HRM and CIM3 joined

The Chair gave a warm welcome to both the HRM and CIM3 for their first Board Meeting in their current roles and Members round the table gave short introductions.

10. Q4 EoY 2016/17 HR Update

- 10.1 The Chair explained the current HRM role, which is supported externally with Magenta HR.
- 10.2 Members noted that the overall absence rate has decreased YoY and that the HRM has been working with the SMT on this process to assist in reducing and managing sickness absence. Workshops had been held, and new more structured paperwork approved.
- 10.3 The HRM advised Members that there has been a slight change to the recruitment process, and this has shown an increase in the number and quality of applications received, which will hopefully aid the retention rate of staff.
- 10.4 Members noted that the average length of service for 2016/17 was 4years and wonder how this compared with other similar organisations. Following discussion it was agreed that the HRM would gather comparable data on length of service, gender pay gaps etc.
- 10.5 The Chair reiterated that it should be acknowledged that: 1) there has been a positive move from temporary contracts, 2) sickness has improved, 3) there have been no disciplinary or grievance processes, 4) also remuneration is more than just about pay as the HRM is instrumental in ensuring consistent application of processes within the organisation, 5) retention is improving and 6) also utilising the innovative arrangements for the HRM being supported by Magenta HR.
- 10.6 It was noted the annual staff survey was underway, and would be reported to the Board in due course.
- 10.7 Members found the paper very information and thanked the HRM for her input.

11.20am HRM left the meeting

11. Appeals Update

- 11.1 The CIM3 spoke to the paper presented and provided an update on current appeals. The CIM3 advised that since the production of the paper, two additional appeals have been received at Eligibility stage and confirmed Members will receive a full update at the next Board Meeting. The CIM3 also advised that one of the current ongoing appeals has been sisted for 6 weeks, this was at the party litigants request and was for medical reasons, this has been unopposed by the SLCC.
- 11.2 The CIM3 stated that there was one new appeal at Determination stage since the last update and it has been agreed that this will be remitted back by way of a Joint Minute to be re-determined. It was also noted that the three sisted Determination stage appeals will now be progressed, as we have now received the Court of Session decision on the Anderson Strathern decision.
- 11.3 Members noted that the YoY number of appeals received was comparable. Members were reminded that parties have 28 days from receipt of the decision to appeal to the Court of Session.
- 11.4 Following a free and frank discussion about a new Determination appeal, Members reminded SMT that it had been agreed that **all** Board Members who had been involved in the making of a decision, whether at Eligibility or Determination stage, should be informed that an appeal has been received and that ongoing updates are provided throughout the appeal process. The CEO also advised that learnings, if any, should be shared with other Members and staff, possibly at a future Board Development Session.

Action	Owner	Due Date
SMT to ensure that Members are informed of appeals received regarding any of their decisions.	CM, CIM2 and SMT	Ongoing

- 11.5 Members also requested that they are advised of the date of the Appeal Hearing and sought clarification as to where appeal information was stored. The CIM3 advised was held electronically on our internal system which Members have access to.
- 11.6 Members thanked CIM3 for his update to the papers presented.

11.40am CIM3 left the meeting

12. Predictive Model – the next 12-24 months

- 12.1 Members noted the paper as presented which were included and discussed in detail during the Board Development discussion on future Operating planning for 2018/19.
- 12.2 The Board agreed the action discussed informally the prior day that details of production per person and journey time per person be brought to the Board in September for a specific discussion.
- 12.3 The Chair drew Members attention within the plan to reduce WIP down to 347 by 30 June 2018 and also to have the residual WIP clear by January 2020.

Action	Owner	Due Date
Data on production per person and JT per person to be brought to the Board.	CEO / HI	26 September 2017

13. Planning for Efficiency and Resource

- 13.1 Members noted the paper as presented which were included and discussed in detail during the Board Development discussion on future Operating planning for 2018/19.
- 13.2 The Board agreed the action discussed informally the prior day, that details of an eligibility piloted which pushed efficiency (as opposed to other factors) as far as was possible was developed and presented to the Board. It was noted that some risk management decisions may need to be taken and balanced against the need to assess potentially more efficient ways of working
- 13.3 The Chair also thanked the CEO for circulating the draft notes of actions so promptly.

Action	Owner	Due Date
Proposal on a pilot to be brought to the Board for Quarterly update.	HI	31 October 2017

14. Update on Lease

- 14.1 The CEO advised that following the constructive discussion meeting with the SGvt Property Department, they have now fully engaged in the SGvt process. Members noted the paper presented and suggested that the SMT might wish to gather additional information on our staff's postcode for the process data map. A free and frank discussion took place regarding other geographical areas in the area surrounding Edinburgh, along with lease terms, which Members feel should be taken into account when making the final lease location decision. All other details within the paper were considered appropriate.. Members agreed that the CEO and F&CSM would progress this matter and provide updates to the Board as the process progresses.
- 14.2 Members thanked the F&CSM and CEO for their update to the paper presented.

15. ABS Project Update

- 15.1 The CEO advised that whilst we are still continuing to have 6-weekly meetings with SGvt, we are still waiting written confirmation of the implementation 'go live' date of 1 April 2018, along with confirmation of any SGvt funding, thus enabling us progress the project timetable before the 'go live' date. Further updates will be provided at each Board Meeting.

16. Diversity in Governance

- 16.1 Members noted and approved the adoption of the SGvt model of self-assessment presented in the paper by the CEO.

17. Minute of the AC Meeting of 24 April 2017

- 17.1 The AC Chair spoke to the Minutes presented and reminded Members that the AC would be reviewing the recent Disaster Recovery Plan exercise at the next AC meeting which is due to take place on 21 August 2017.

18. Risk Register Summary

- 18.1 Members noted the interim update on the paper presented. The CEO advised that two new risks had been added to include the lease review, finance management and treasury management (the latter following best practice which had just been identified, rather than a new issue).

19. Policy Review

- 19.1 Members noted and agreed with proposed new review date of a three year period for the following Policies:
- 19.1 GOV001 Governance Arrangements
 - 19.2 GOV002 Standing Orders
 - 19.3 GOV006 Commissioners Payments and Reimbursement of Expenses
 - 19.4 GOV018 Member's Disciplinary Policy
 - 19.5 Employee Handbook (Whistleblowing Extract)

20. Board Actions Register

- 20.1 The Board noted all actions were on track for completion and agreed all completed actions should be removed from the register.

21. Minutes of Previous Meetings from 30 May 2017, 13 June 2017 and 26 June 2017

- 21.1 30 May 2017
The Minute of the Board Meeting was approved as read.
- 21.2 13 June 2017
The Minute of the extra Board telephone Conference Call Meeting was approved as read.
- 21.3 26 June 2017
The Minute of the Board Performance Call Meeting was approved as read.

22. Chairman's Report

- 22.1 The Board noted the paper presented.
- 22.2 Members raised concern as to whether or not the replacement Chair and Member will be in post prior to the departure of the existing Chair and Member. The CEO and Chair have both raised their concerns about timescales slipping with SGvt, and it is hoped that the new Chair and Member will be appointed to attend their full induction and observe the Board Meeting in December prior to their departure.
- 22.3 Member Dunion advised that he has also sought Ministerial approval to also demit from his role of office at the same time as the Chair, 31 December 2017, so that both positions to be filled at the same time, thus aiding the recruitment process.
- 22.4 The Chair advised that he also had future planned meetings with the LSS on the 31 July 2017 and Esther Roberton, Chair of the Independent Review of the Regulation of Legal Services Committee on 8 August 2017. It should be noted that Ms Roberton will also be attending the SLCC to meet staff and Board Members on 26 September 2017. The Chair was also hoping to have a meeting with the Minister to discuss the outcome of the AS Appeal.

23. Date of Next Meetings

- 23.1 The next Performance Call was due to take place at 10am on Monday 24 August 2017, with a Board Development Session at 2pm on Monday 25 September 2017 and the next Board Meeting was due to take place at 10am on Tuesday 26 September 2017.

24. Dates for Future Board Meetings

- 24.1 The CEO advised that following the SMTs workshop with Tanya Castell, it was suggested that SMT move even further towards Quarterly reporting of information to the Board. It was therefore suggested that future dates were tweaked slightly, to have a main Board Meeting after the end of a Quarter, ie Quarter 1 incorporates July, August and September, so there would therefore be a full Board Meeting in October to discuss Quarter 1 reports. It was noted the dates also take into account annual Budget, Operating Plan and Annual Report approval at the March and September Board Meeting dates. On alternative months Performance Calls take place for normal Board updates.
- 24.2 Members asked that consideration be given to both Edinburgh and Glasgow public holidays when setting future Board Meeting dates and this was agreed.

25. AOCB

- 25.1 Members enquired as to whether or not there was a date set for the ongoing HR Tribunal case. The CEO advised that no date has been received from the Employment Tribunal and that our legal advisers provided an update monthly.

12.20pm F&CSM and HI left the meeting

26. Chief Executive's Report

- 26.1 The Board noted the paper presented.
- 26.2 Members sought clarification as to whether there had been further communications regarding the Court of Session decision on the AS Appeal. The CEO noted positive coverage of our press release, and other positive articles based on the wording of the judgement. It was noted others were writing articles from a technical perspective, as the case had wider interest for lawyers around good public administration and dealing with ultra vires acts. We had been contacted by a number of legal and academic authors. This coverage may be useful in emphasising the complexity and prescriptive nature of the 2007 Act and the confines we therefore work within.
- 26.3 Members thanked the CEO for his update to the paper presented.

12.25pm CEO left the meeting

27. Chief Executive Performance Targets for 2017/18

- 27.1 The Board agreed and approved the proposed 12 performance objective targets for the CEO for 2017/18.

28. Review the Meeting – Feedback for SMT and CEO

- 28.1 The Chair asked the Board if they would like to share any feedback or questions; all Board Members declined to do so.

12.30pm Board Meeting ends

