

**MINUTE OF A MEETING OF THE MEMBERS OF THE SCOTTISH LEGAL COMPLAINTS
COMMISSION: 10AM TUESDAY 30th OCTOBER 2018
Venue: The Stamp Office, 10 – 14 Waterloo Place, Edinburgh, EH1 3EG**

PRESENT:

LAY:

Jim Martin (Chair)
Sara Hesp
Emma Hutton
Sarah McLuckie
Morag Sheppard

LAWYER:

Denise Loney
Amanda Pringle
Kay Springham

In attendance:

Neil Stevenson (CEO) (Items 1-23)
Caroline Robertson (HI) (Items 7-8)
Alison Marron (DPO) (Item 15 & 23)

██████████ (secretariat – minutes) (Items 1-23)
John Ferrie (F&CSM) (Items 10)

Apologies:

Michelle Hynd

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

Private Member only session

This session was attended only by the Board no minute was taken of this private session.

With the private session concluded with the CEO and Secretariat joining the meeting at 10.25am

1. Welcome

1.1 The Chair welcomed everyone to the Board meeting and thanked everyone for their input into the private member session.

2. Apologies

2.1 The Chair advised that apologies were received from Member, Michelle Hynd.

3. Declaration of Interests

3.1 Member Emma Hutton declared an interest, as she is a member of the Public and Commercial Services (PCS) Union; this is in relation the HR Update paper. 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. Annual Accounts and External Audit Report

- 4.1 Annual Accounts – the CEO spoke to the paper presented and Members noted that these had been reviewed at both the previous Board and Audit Committee Meetings. The CEO will sign off these accounts as Accountable Officer. Members sought clarification on the signature date being 8 October 2018 and the possibility that some information would have been superseded by discussions after this date. The CEO explained that the 8 October was the date that the accounts were provisionally signed in front of the External Auditors. Members noted and approved the Annual Accounts.
- 4.2 External Audit Report – in the absence of the AC Chair, AC Members advised that extra wording had been added by the EA at the AC’s recommendation. Members noted the improved, positive relationship with the EA. Members noted and approved the EA Audit Report.

5. Annual Report

- 5.1 The Chair explained that as the outcome of the Independent Legal Services Review Report had now been received, the Chair and CEO’s opening remarks within the Annual Report would be redrafted. The CEO reiterated the layout format would be inserted into a publishable, design format once it has been finally drafted. Members suggested further proofing be done to ensure that consistent terminology is used throughout the report. References should also include Commercial Attorneys and all figures should be double-checked and cross-referenced throughout the report too. It was agreed that the final version would be circulated to Members by email.

Action	Owner	Due Date
CEO to circulate a final drafting of the Annual Report to Members by email.	CEO	By 16 November 2018

6. Key Issues Update

- 6.1 Rise in incoming cases - The CEO spoke to the paper presented and in particular drew Members attention to the rise in incoming complaints received, which has risen to 188. The CEO advised of this number, 84 were linked to 42 complaints; these involve one practitioner, but who has moved firms in the middle of the transactions requiring both firm to be intimated/respond, thus resulting in 84 complaints being counted this way. Members wondered whether or not all these complaints should be considered by the same CI/Member to ensure consistency of approach etc. The CEO agreed to raise this with the HI to consider this approach.
- 6.2 Joint work with LSS on interim improvements to the complaints system – The CEO gave a brief overview of the current position and advised that he had three weeks ago met to address the LSS Regulatory Committee to give the SLCCs perspective and that this had been a positive meeting. It was noted that the LSS had been in touch informally and work was progressing, and that we would receive a more formal response in due course.
- 6.3 Members thanked the CEO for his update and noted the rest of the paper as read.

11.00am HI joined the meeting

7. Q1 Long Term Trends and Performance Report

- 7.1 The Chair asked that the HI give an overview of the Operational Performance for Q1. The HI reiterated that whilst there was a slight ‘dip’ in month on month on incoming cases, there were 188 new complaints received so far this month. Members noted the increase in upward trend on output and productivity, and the decrease in JT. The HI advised that another recruitment process has commenced, due to receiving the resignations from a CI and a CIM, both are due to leave mid-November and mid-December respectively.

- 7.2 The Chair sought clarification as to the average case load per CI and the HI advised it was approximately 15 cases per CI, and productivity was generally improving, though it should be noted that a number of CIs are still in the transition period for the new Report styles. Members sought assurance from the HI and CEO that SMT should be starting to see the output from the recent 'sprint' trials and were keen to see these reflected in presented figures. Members also suggested that the '84' linked cases be handled as a priority and if they were ring-fenced then the average incoming figures would average out at approx.100 cases.
- 7.3 The HI gave an update on the current sprints and advised that three more CIs would move now on to the Investigation sprint stage, with the Mediation 'opt out' now being trialled.
- 7.4 Members noted their concern that the results of these recent trials were still not being reflected in the figures presented and wondered whether these trials were challenging CIs enough as they are not reflecting in output. It was noted that they were showing slight improvements but it was acknowledged this was conservative and not as much was hoped by SMT. The Board stressed that there should now be a reduction in WIP and JT figures, which they feel is not being reflected in the figures presented.
- 7.5 A free and frank discussion followed on the options of Process Performance and KPI targets, it was agreed that SMT would for next months figures show the 84 'ring-fenced' cases separately for the purposes of WIP. Members also asked that the CEO give due diligence to increasing productivity and reduction of WIP and JT as a matter of priority. The HI stressed that IMT were continually focussed on productivity and reducing WIP and JT. It was agreed that the CEO would circulate a copy of sustainable WIP targets by the end of this week to Members. Following receipt of this information it was agreed Members would raise any further points with the Chair who would meet with the CEO to discuss.
- 7.6 Members noted the rest of the paper as read.

Action	Owner	Due Date
CEO to circulate a copy of sustainable KPI and WIP targets to the Board for information.	CEO	By 2 November 2018
SMT to extract the 84 'ring-fenced' cases to be shown separately for the purposes of WIP and JT for October onwards.	SMT	By 30 November 2018

8. Management Information to 30 September 2018

- 8.1 Members noted the paper presented.

11.45am HI left the meeting

9. Update on the 2018-19 Operating Plan

- 9.1 The CEO spoke to the paper presented and gave a short overview and update to the current Operating Plan. Following discussion, it was agreed that the SMT would review the RAG on Objective 2 from Green to either Amber or Grey.
- 9.2 Members thanked the CEO for his update and noted the rest of the paper as read.

11.50am F&CSM joined the meeting

10. Financial Management Report

- 10.1 The F&CSM spoke to the papers presented.
- 10.2 FMR – 3 months to 30 September 2018 – Members noted Expenditure for the month shows a continued overspend of approximately £17k in direct staff costs. It was noted the recruitment had concluded on the two new Administrative roles both of which will be in post by end of this month. However, the F&CSM reminded Members that a new recruitment has commenced for a CI and CIM, following the recent resignations and would leave mid-November and mid-December respectively. It was acknowledged that

- this, along with the commencement of two new SMT Directors, will continue to impact on Direct staff costs, estimated out-turns will be revised accordingly throughout the year.
- 10.3 Members sought clarification on the variance on Communication expenditure. The F&CSM explained that this included the rolling programme on the new website design.
 - 10.4 It was noted that Reserves for end June 2019 were anticipated to be in the region of £395k.
 - 10.5 Balance Sheet – Members noted the balance sheet presented.
 - 10.6 The Chair thanked the F&CSM and CEO for their update and explanation to the figures presented.

11.55am F&CSM left the meeting

11 Q1 Customer Feedback

- 11.1 Members noted the paper as read.

12 Q1 HR Update

- 12.1 Members noted the paper presented and sought clarification as to whether the outcomes of year-end Performance Appraisals were compared to other similar industry standards. The CEO explained they were not compared, however it was noted that typically a 'normal distribution' would be looked for. On that basis, a slightly higher percentage recorded as 'developing' was slightly out of kilter, but this is due to the increased number of new starts who joined us this year.
- 12.2 Members noted the results of the Annual staff temperature check, which is showing encouraging results YoY. The CEO explained the questionnaire was supported by the Staff Reps holding optional workshops to discuss themes and issues raised by staff.
- 12.3 Members noted with interest the Menopause Guide included with the paper and suggested future similar guides be circulated to Members as well as staff.
- 12.4 Members sought clarification as to why the PCS Union were seeking voluntary recognition within the SLCC. The CEO explained the SLCC were unusual as an NDPB in not having formal recognition of a union, and PCS Union were seeking to address that, in particular in relation to pay negotiations etc. Following the recent PCS presentation it would appear there is split in staff as to whether this would be beneficial or not to them, some staff have indicated they might like to explore other union options. Members noted this with interest and asked the CEO to keep them updated.
- 12.5 Members thanked the CEO for the update and explanation to the paper presented.

13 Appeals Update

- 13.1 Members noted the paper presented. Members sought clarification as to whether 'learnings' from Appeal decisions were shared with staff and Members. It was agreed that going forward the CEO would ensure these learnings were shared where appropriate.
- 13.2 Members also requested that they are notified if any Appeals are intimated that they were involved in the decision making process. The CEO confirmed they would be.
- 13.3 Members also suggested that Counsels Opinions should be collated and shared with Members in a brief report on a quarterly basis, in particular include learnings on reasoning.

Action	Owner	Due Date
CM and CIM3 to share learnings from Appeals with staff and Members and include a heading on learnings within future Appeals Update papers to the Board.	CM/CIM3	Ongoing
CM and CIM3 to ensure that Members are informed of any Appeals where they were involved in the decision making process.	CM/CIM3	Ongoing
CM and CIM3 to prepare and share a quarterly report on Counsels Opinions and in particular learnings on reasoning.	CM/CIM3	By end Q2 - 31 December 2018

- 13.4 Members thanked the CEO for the update and noted the rest of the paper as read.

14 Draft Budget and Operating Plan for 2019/20

14.1 Members noted the paper presented as read.

14.2 The Chair acknowledged that this had been subject to discussion at the Board Development Session yesterday, Members noted the action points recorded from this discussion and tabled at the meeting asking for additional information on areas such as staff costs, IT, caseload. No formal decisions were made, but Members confirmed the summary documented the information the Board wished next from the CEO and SMT to focus their review and redraft for update to the next Board Meeting.

Action	Owner	Due Date
CEO and F&CSM to redraft and review the draft Budget and Operating Plan following Board Development Session, and based on the tabled summary of actions.	CEO	By 18 December 2018

14.3 The Chair asked Members to raise any further points through him, as he would meet with the CEO to discuss.

15. DPO Update on GDPR

15.1 The CEO advised that the DPO was available to speak to the paper presented. The Secretariat left the room to ask the DPO to attend, who unfortunately was unavailable at present, it was agreed that Members would revert to this item later in the Meeting.

Whilst the Secretariat was out the room, Members had concluded the following items: 16 and 17.

16. Risk Register

16.1 Paper was noted as read.

17. Board Actions Register

17.1 Paper noted as read and agreed all other completed actions should be removed from the register.

The Secretariat re-joined during the Members discussion on item 18.

18. Minutes of Previous Meeting from 25 September 2018

18.1 There had been discussion regarding item 10 in relation to Complaint Levy Policy, in particular, about point 10.2 and the transition period that would apply to this Interim Policy. To ensure transparency, it was agreed that the Secretariat would review the wording and re-circulate the draft Minutes to the Chair, Member K Springham and the CEO for further clarification and approval. Once this has been done, they will be circulated to all Members for approval by email.

Action	Owner	Due Date
Secretariat to reword 10.2 from draft Minutes from 25.09.18 Meeting and circulate to the Chair, CEO and Member Springham for approval, prior to circulating to all Board Members for approval by email.	Secretariat	By 31 October 2018

19. Chairman's Report

19.1 Members noted the verbal update from the Chair to all internal meetings attended.

20. Date of Next Meetings

20.1 The Chair advised that the Secretariat confirmed the date of extra Board Member Workshop to be 26 November. Members were also advised this Workshop will now commence at 1pm with Esther Robertson, Chair of the Independent Review of the Regulation of Legal Services Group joining this Workshop at 2.30pm.

20.2 Members noted the dates of the next meetings as:

- Board Development Session will commence at 2pm on Monday 17 December 2018
- Board Meeting will take place at 10am on Tuesday 18 December 2018

The Secretariat drew the Chair's attention to Agenda Item 17 update which would be given by AC Member M Sheppard in the AC Chairs absence today.

21. Update from the Audit Committee

- 21.1 AC Member gave a brief overview of the recent AC Meeting and advised that the AC had been reviewing Members Expenses prior to inclusion the Annual Report. The AC would also be considering whether or not to consider reverting back to a Members daily rate rather than an hourly rate and the F&CSM has been tasked with further analysis for the next AC meeting. The AC External Audit will also focus on our agile approach to non-financial fraud and a review of sprint trials. The CEO reiterated that any changes in any Policies would be a Board decision.

22. Chief Executive's Report

- 22.1 Members noted the paper presented, Members were interested to note the meeting as part of the Queen Margaret University research – "impact of complaints on those complained about" and looked forward to receiving a copy of the research when available.

12.40pm DPO joined meeting

23. DPO Update on GDPR

- 23.1 The Chair thanked the DPO for joining the meeting. The DPO spoke to the paper presented. Members enquired as to whether they would be included in the Home Working/Remote Working Assessment Audit plan. The DPO confirmed they would be due to the nature of their roles.
- 23.2 Members sought clarification on the one isolated data breach reported to the ICO and the DPO expanded on this point.
- 23.3 Members thanked the DPO for the very informative paper presented and explanations given.

12.50pm DPO left the meeting

24. AOCB

- 24.1 None.

25. Review of the Meeting

- 25.1 With no other business the meeting concluded.

12.52pm CEO and Secretariat left the meeting

There followed a Private Member only session

13.15pm Board Meeting ends