

**MINUTE OF A MEETING OF THE MEMBERS OF THE SCOTTISH LEGAL COMPLAINTS  
COMMISSION: 10.10AM TUESDAY 30<sup>th</sup> MAY 2017  
Venue: The Stamp Office, 10 – 14 Waterloo Place, Edinburgh, EH1 3EG**

**PRESENT:**

**LAY:**

Bill Brackenridge (Chair)  
Kevin Dunion  
Michelle Hynd  
Sarah McLuckie

**LAWYER:**

Denise Loney  
Amanda Pringle

**Guests in attendance:**

Jan Marshall (Deputy Director Justice Department, Scottish Government) (Items 1-4)  
Tanya Castell (Board Development) (Items 1-30)

**In attendance:**

David Buchanan-Cook (HO) (Items 1-30)  
Caroline Robertson (HI) (Items 1-30)  
[REDACTED] (secretariat - minutes)

Keith MacConnachie (CM) (Items 1-30)  
Neil Stevenson (CEO) (Items 1-30)

**Apologies:**

Sara Hesp  
Emma Hutton  
Kay Springham  
John Ferrie (F&CSM)

**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 1<sup>st</sup>  
FoA – Faculty of Advocates  
HSF – Hybrid Service 1<sup>st</sup>  
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, in particular a warm welcome was extended to Jan Marshall, who is the Deputy Director in the Justice Department and Tanya Castell, who is observing the SMT with a view to working with them on Board Development.

**2. Apologies**

2.1 The Chair advised that apologies had been received from Sara Hesp, Emma Hutton and Kay Springham and that the meeting was still quorate as there was a majority of lay Members. Apologies were also noted from John Ferrie, F&CSM.

**3. Declaration of Interests**

3.1 No other declarations of interest were made.

#### **4. Overview of Role and Support from SGvt Sponsor Department to the SLCC**

- 4.1 The Chair invited Deputy Director, Jan Marshall with the Justice Department to give an overview of her role and how the Justice Department links into and supports the SLCC.
- 4.2 Ms Marshall explained that her department deals with Civil Law Policy and the implementation of Civil Law. Ms Marshall is responsible for 5 teams within this Scottish Government department which are responsible for:
- 1 Tribunals and the tribunal system
  - 2 Reform of Civil Law
  - 3 Property and Family Law
  - 4 Judiciary and reform of the Court System
  - 5 Access to Justice, Legal Aid and the Sponsorship responsibilities
- 4.3 It was acknowledged that whilst SLCC is not publicly funded and therefore not financially accountable to SGvt, they have jointly developed a Framework Agreement with the SLCC. This document has been approved by the SLCC Board and is currently with the SGvt Legal Team for final approval.
- 4.4 Ms Marshall also confirmed that, where necessary, there had been a great deal of open and positive engagement between the SLCC and the Sponsor department. This has been beneficial on both sides and aided the appraising of the Justice Minister, Anabelle Ewing on the issue of the AS Appeal Case.
- 4.5 Ms Marshall also recognised that our CEO was involved in the Working Groups which are reviewing the Regulation of Legal Services and ABS.
- 4.6 Ms Marshall was keen to stress that whilst SGvt have no powers to influence the decisions of the SLCC, the Framework Agreement would ensure ongoing engagement between SGvt and the SLCC.
- 4.7 Members thanked Ms Marshall for her overview to her role and reiterated that it was reassuring to hear that the relationship was positive between SGvt and the SLCC.
- 4.8 The Chair thanked Ms Marshall for her input and echoed that they look forward to continuing the good avenue to enable an open and regular diary of meetings.

*10.25am JM left the meeting*

#### **5. Update on Anderson Strathern**

- 5.1 The CEO advised that unfortunately there was still no judgement received on this matter and our Legal Adviser will speak to the Court Clerk to ascertain if this will be imminent. The CEO confirmed that all cases which are on hold due to this issue have been sent updates explaining that we were still awaiting the decision from the Court of Session.
- 5.2 The Chair reminded Members that the action plan for when the decision was received had been previously circulated and that the timetable for the process will be:
- 5.2.1 the SMT will meet to discuss the decision,
  - 5.2.2 the CEO will contact the Chair immediately,
  - 5.2.3 a meeting of the Board will be convened ASAP and will include our Legal Adviser, it was noted that this meeting may need to be in the form of a Conference Call.

#### **6. Management Information**

- 6.1 The HI spoke to the paper presented.
- 6.2 WIP - Members noted had been a slight decrease in the number of new complaints received and in the overall WIP. The HI advised that this was currently showing an increase again for next month, and that the dip was partly due to the phasing of cases coming onto the system.

- 6.3 **Total Case Lifetimes** – Members noted that the overall Journey Time and Working Time of cases was now the highest for this year and the HI confirmed this was largely due to the ongoing AS Appeal cases on hold in the system. Discussion took place as to whether or not it was possible for the system to extract these cases, thus subsequently providing two sets of figures, one with all cases on the system and the second with those cases on hold due to the AS Appeal decision. The HI was unsure whether or not this data could be extracted and it was agreed that the SMT would try to obtain a report on this information for the next Board Meeting.

Action	Owner	Due Date
CEO to clarify whether or not the cases being held due to RECAT can be extracted from the overall Journey Time and Working Time figures, if so, update report to be provided to the Board at the next meeting.	CEO/Hi	26 June 2017

- 6.4 **Cases to be Allocated** – Members noted that there were still 246 Eligibility cases to be allocated and the CEO confirmed that whilst these are on hold they have all be triaged. Members noted of the 10 cases awaiting allocation at Investigation stage these were awaiting files and responses from parties and will be allocated as soon as this information has been received.
- 6.5 **Enquiries and Eligibility** – Members noted the figures presented and that the number of Complaints received for April was down from March, though it was acknowledged these were comparative YoY.
- 6.6 **Mediation** – Members noted that the take up rate has been steadily decreasing over the last 4 years. The HI advised that whilst the take up rate was low, the success rate was high, and the CIM and Mediation Co-ordinator were reviewing the communication literature and updating the website video which will hopefully help with this process. Members sought clarification if all offers of Mediation were in writing and the HI advised that initial letters are sent to parties and followed up with a phone call from the Mediation Co-ordinator. The CEO reminded the Board that cases which are not successfully mediated move through the system often ending up at the Determination stage of the process.

Action	Owner	Due Date
SMT to consider the decrease in take up rate of Mediation and an update report to be provided to the Board at the next meeting.	CEO/Hi	26 June 2017

- 6.7 **Investigation** – Members noted the figures presented. Clarification was sought from Members as to when they should start to begin to see an increase in efficiency and continuous improvement. The CEO stated that this should be addressed in the next presentation on Long-term Trends and Performance Report for Q3.
- 6.8 **Determination** – The CM spoke to the figures presented and reiterated that whilst there had been 11 final Determination Reports issued in April, all outstanding cases held at DC stage >6mths were RECAT cases and all other cases were <3mths, which has resulted in the Working Time in Clerking being reduced.
- 6.9 Members noted the other figures presented within the paper and Members thanked the SMT for their update.

## 7. Long-term Trends and Performance Report – Q3

- 7.1 The CEO and SMT had been asked at the previous meeting to come back to the Board with further information on the production of Quarterly reporting, with a view to seeking Members thoughts as to whether the information gathered was beneficial to the Board.

- 7.2 Members noted that whilst the Incoming cases data showed a decreasing trend up to Q1-3 in 2014/15 with the headcount being adjusted accordingly. There has been an increase from Q4 2014/15 onwards which has continued to rise, getting steeper in Q3 2016/17. Members sought clarification as to whether the Predictive Model can be used as a forecasting tool for incoming cases. The CEO advised that unfortunately, it was not possible with this model. Whilst it could forecast on the basis of previous data, and if done regularly this can assist, it can't predict for underlying changes in the market. There was no single clear explanations as to why the number of complaints increased have from July 2014 onwards, it was hard to explain the reasons for this. The Chair asked that this trend feature within the Annual Report and this information be shared with our stakeholders.
- 7.3 Members noted that as the number of cases increase, this has an impact on the WIP and Unallocated cases, thus resulting in the recruitment of 4 new Case Investigators from September 2015 onwards. It was acknowledged by SMT that unfortunately the figures are not reflective of this at present, whilst new staff have been recruited some have left, creating a training lag with new starts. Members sought clarification as to whether they were able to produce the productivity rate per individual CI, for example, if all CIs were producing 'X' amount of cases per month, the output would be 'Y', thus showing the potential of CIs working at full capacity. The HI advised that whilst CIs were continually measured, this information was not normally brought to the Board (but was used in the predictive model) and CIs have monthly meetings with their Manager to discuss KPIs and performance. The CEO advised that this information could be provided with the EoY information.

Action	Owner	Due Date
CEO to provide KPI information per CI at Eligibility and Investigation stage of the process for the next Board Meeting.	CEO/SMT	25 July 2017
CEO to circulate a copy of the presentation to all Members.	CEO	30 May 2017

- 7.4 The Chair reiterated that the rising number of incoming cases needs included within the Annual Report and also raised with our Stakeholders. The Board also needs to think about the impact this will have on the Operating Plans for 2017/18, 2018/19 and beyond. It was agreed that the SMT would consider the options, review the risks and feedback to the next Board Meeting.

Action	Owner	Due Date
SMT to consider the increase in incoming cases, which is impacting on the WIP and Unallocated cases and whether or not the KPIs are right for CIs and report back to the next Board Meeting.	CEO	25 July 2017
CEO to ensure rise in incoming case information included in Annual Report and shared with Stakeholders.	CEO	Annual Report – Dec 2017 Stakeholders – monthly

11.25am comfort break  
11.30am meeting resumed

## 8. Finance Report

- 8.1 FMR – 10 months to 30 April 2017 - In the absence of the F&CSM, the CEO spoke to the papers presented and advised these were for 10mths of the Financial Year. The CEO also advised that we had just undergone an Internal Audit and an update will be provided to the AC and next Board Meeting.

- 8.2 It was noted that Staff costs were £5,583 over budget for the month, however, Member costs remain below budget with the out-turn being adjusted to reflect this. Non-staff costs will show an increase in Legal costs for May.
- 8.3 The anticipated total expenditure out-turn has been revised to £2,959,350 which is £96,050 over budget. Income at £2,759,251 is £41116 higher than budget. Reserves at the end of June 2017 are anticipated to be in the region of £470,000 before provision for dilapidations and pension costs.
- 8.4 Members requested that the Member's IT equipment be reviewed, as it was considered it was no longer fit for purpose. It was agreed that the CEO would seek the views of Members as to the type of IT equipment they would prefer, ie notebook laptop, tablet.

Action	Owner	Due Date
CEO to seek Members views for IT equipment.	CEO/F&CSM	25 July 2017

### 9. Operating Plan Update – Q3

- 9.1 The HI provided an update on the current projects within the Operating Plan and advised that the AS Appeal was having a slight impact on some of the projects and increased the Media reporting from the Oversight Team. It was acknowledged that no projects were red and one project had been decommissioned at the moment due to Data Protection and the requirement to amend our Complaint Form before the project commences, this project will be moved to next year's Operating Plan.
- 9.2 Members noted that of the remaining projects 8 were Amber and the HO assured the Board these should all be completed.

### 10. HR Update – Q3

- 10.1 The CEO spoke to the paper presented and advised Members that the figure contained in the first column of the table at point 3.12 of the paper headed 2015/16 for Q1 sickness rate for all staff should read 3.24% with a variance from national statistics of 0.42% and apologised on behalf of the HRM for this error.
- 10.2 Members found the paper very information and helpful and requested that the CEO pass on their thanks to the HRM.

### 11. Customer Feedback Report – Q3

- 11.1 The CEO provided an update on the paper presented and Members noted it was interesting the general view/perception of bias is towards solicitors. The HI advised that the most frequent question is as to how we are funded and this information is on the website. The Chair was interested to note that the response rate was very low (10.7%) and requested that consideration be given by SMT on how to increase the response to feedback.

Action	Owner	Due Date
CEO to consider how to increase response feedback with FO.	CEO & FO	25 July 2017

### 12. Appeals Update

- 12.1 The CM provided an update on current appeals. The CM stated that there was no further appeals at Determination stage, however, there were 2 on Eligibility decisions and early assessment is that these will be defended by the SLCC.
- 12.2 Members noted that the expense account on one case has gone to taxation, one other the claim for expenses has fallen due to not lodging the account in time, and one other has been settled and is now concluded.
- 12.3 Members recorded their thanks to CIM2 for input into these project and note CIM3 will now take over this role.

**13. Final Approval of the 2017/18 Operating Plan**

- 13.1 The Chair advised Members they now required to formally approve the final version of the Operating Plan. Members agreed to delegate final formatting, typographical and presentation issues to the CEO, who will be supported by the SMT in ensuring this plan is implemented.
- 13.2 Members also approved the final projects and priorities for 2017/18.

**14. Update on Operational Initiatives**

- 14.1 The HI provided an update to the operational changes within the IMT and the Chair requested that as there were a number of incremental changes it might be beneficial for the SMT to update Members at future Board Meetings.

**15. Why are Complaints rising?**

- 15.1 The CEO provided the background reasoning to drafting of this discussion paper for the Board.
- 15.2 Members suggested a typographical change to the wording and after further detailed discussion on the factors and data which might aid the understanding of why 'incoming' complaints are rising, Members suggested they would be keen to ascertain from historical data:
- 15.2.1 areas of law by subject of complaint,
  - 15.2.2 subject matter of complaint against service standards,
  - 15.2.3 the geographical area of complainers, and
  - 15.2.4 how have these changed over the last year on year. The CEO reiterated that on first analysis it is not one particular area, ie for example the number of Conveyancing complaints has gone down.
- 15.2 Members considered whether the increase in complaints meant there was an increase in the number of transactions carried out by the profession, ie were they in relation to legal advice or communication issues. The CEO advised that whilst they were able to obtain some data from Registers of Scotland etc it would be difficult to obtain a statistical correlation between each area. The HO reiterated there had been a rise in the number of solicitors registered within the profession.
- 15.3 Members thanked the CEO for his input on this discussion paper.

**16. Apportionment of the Levy**

- 16.1 The CEO provided the background reasoning to drafting of this discussion paper for the Board.
- 16.2 Members suggested a typographical change to the wording of the title of the document and after further detailed discussion agreed to remain with the status quo approach for the application of the Levy.
- 16.3 The Chair sought clarification of the figures presented and it was agreed that the CEO would clarify and obtain the LSS Levy percentage figures, extracting the SLCC costs over the last 10years.

Action	Owner	Due Date
CEO to obtain LSS Levy figures percentage costs over the last 10years, extracting the SLCC costs from this information.	CEO & FO	25 July 2017

**17. Lease Review**

17.1 The CEO advised that there had been a very constructive early discussion meeting with the SGvt Property Department. The CEO stressed that they will work closely with SGvt, and an update paper will be presented to the next Board Meeting. The Board instructs the CEO to not spend any additional monies unless required. The Board will approve criteria options and consider comparative options before formal sign off. It was noted that formal decision requires Ministerial approval, and a preferred option and a backup option must be presented.

**18. Consistent Decision Making Update**

18.1 The CM spoke to the paper presented and gave an update on the project thus far. Members noted that the information being gathered going forward will be in the new update of the Case Management System.

18.2 Members considered the Oral Hearing (OH) training which took place at the Board Development Session and it was agreed that the SMT would review how OH would be facilitated by Members. It was also agreed that the CM would circulate notes from the OH training and review the current OH Policy and Procedure.

Action	Owner	Due Date
SMT to consider how to review OH training for Members and review the current OH Policy and Procedure to reflect Member training.	CEO & CM	26 Sept 2017

18.3 Member, K Dunion shared his knowledge and experience of OH within his current role at the Standards Commission and offered Members the opportunity to observe a future hearing.

**19. Update from AC Meeting from 24 April 2017**

19.1 A verbal update had been provided at the last meeting on the work undertaken in the last Audit Committee.

19.2 The AC Chair gave an overview of the recent AC meeting; in particular noted that the draft revised Risk Register which dominated the main discussion of the meeting and is an Agenda item at today's meeting, along with:

19.2.1 Predictive Model and the aim to get closure to reality of prediction of figures.

19.2.2 Assurance Map, which will be brought back to the Board.

19.2.3 Audit Plans and the new External Auditory have Actuarial Specialists who will work with our F&CSM to review the LPF Pension risk.

19.2.4 Specific areas of Risk – specifically income.

19.2.5 IT Security and the implication of higher liability of data protection.

19.2.6 Business Continuity Plan – the Disaster Recovery Plan exercise carried out by SMT last week was observed by H&S Member and the outcomes will be brought to the next AC and Board meeting. This was noted to be a thought provoking exercise with learning points being shared with the SMT. It was suggested this become an annual exercise.

19.2.7 The AC would also be reviewing their own effectiveness, looking at whistleblowing policy and the policy process register, as well as highlighting to the Chair the requirement of a replacement AC Chair in the next round of SGvt recruitment.

19.3 The next AC Meeting on 21 August 2017.

19.4 The Chair thanked the AC Chair for his update to the AC meeting of 24 April 2017.

**20. Consumer Panel**

- 20.1 Members noted the paper presented by the HO. The Chair asked whether the connection between the Board and the Consumer Panel could be improved. Members stated they found the Consumer Panel input at the Development Session beneficial. It was agreed that the Chair, CEO and HO meet to discuss further with the Consumer Panel Chair.

Action	Owner	Due Date
HO to arrange a meeting between HO, CEO, Board Chair and Consumer Panel Chair to discuss Board and Consumer Panel interaction going forward.	HO, CEO & Chair	26 Sept 2017

**21. Risk Register**

- 21.1 The Chair noted the residual risk severity on Risk 9 was Amber and suggested that this should be raised to Red and it was agreed with the CEO that this Risk would be reviewed.

Action	Owner	Due Date
CEO to review severity of residual Risk 9 from Amber to Red.	CEO	25 July 2017

**22.**

22.1



**23. Scheme of Delegation**

- 23.1 The CEO advised that the Board approved the draft Framework Agreement with SGvt at the April Board Meeting and whilst the final document has yet to be signed off by the Minister, it was agreed that the SoD would be reviewed in anticipation of this approval.
- 23.2 Members approved the suggested changes to the SoD.

**24. Feedback from Legal Chairs Meeting**

- 24.1 Member, D Loney gave an overview of the first meeting of the Legal Chairs, where they formally agreed their Terms of Reference and confirmed they will be meeting again in early September, following which they will bring ideas to the Board for update and approval.
- 24.2 One project they are keen to develop is a 'house-style' for reports and decisions.
- 24.3 The Chair thanked the Legal Chairs and looks forward to receiving an update at the September Board Meeting.

**25. Board Actions Register**

- 25.1 The Board noted actions 202 and 213 were on track for completion and all other actions were complete and should be removed from the register.

**26. Minutes of Previous Meetings from 21 March 2017 and 24 April 2017**

- 26.1 The Board approved the minutes of the previous meeting and previous performance call, subject to a typographical change to the performance call minute.

**27. Chairman's Report**

- 27.1 The Board noted the paper presented.



**28. Date of Next Meetings**

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

**29. AOCB**

29.1 None.

**30. Chief Executive's Report**

30.1 The Board noted the paper presented. The CEO advised that though there had been an increase in the number of meetings with MSPs these had been positive and gave the CEO an opportunity to update MSPs on the role of the SLCC.

*12.55pm SMT, CEO and Secretariat left the meeting*

**31. Chief Executive Performance Review**

31.1 The Board approved the assessment of the CEOs performance.

**32. Chief Executive Remuneration**

32.1 The Board agreed to progress a pay increase of 2.5% for the CEO and the Chair will liaise with the HR Consultant for pay submission SGvt.

**33. Review the Meeting – Feedback for SMT and ECO**

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

*1.15pm Board Meeting ends*

