

**MINUTE OF A MEETING OF THE MEMBERS OF THE SCOTTISH LEGAL COMPLAINTS
COMMISSION: 9.45AM TUESDAY 26th SEPTEMBER 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
Sarah McLuckie

LAWYER:

Denise Loney
Amanda Pringle
Kay Springham (by phone till 11am)

Guests in attendance:

Esther Roberton, Chair of the Independent Review of the Regulation of Legal Services Group
Christine McIntock, Member of the Independent Review of the Regulation of Legal Services Group
Laura Dunlop QC, Member of the Independent Review of the Regulation of Legal Services Group
[REDACTED], Secretariat (managing) of the Independent Review of the Regulation of Legal Services Group
[REDACTED], Secretariat (assisting) of the Independent Review of the Regulation of Legal Services Group

In attendance:

Keith MacConnachie (CM) (Items 1-31)
Neil Stevenson (CEO) (Items 1-31)

Caroline Robertson (HI) (Items 1-31)
[REDACTED] (secretariat - minutes)

Apologies:

Kay Springham (for part of the meeting Items 1-2)
David Buchanan-Cook (HO)
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
SGvt – Scottish Government
ABS – Alternative Business Structures
IMT – Investigations Management Team

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

1. Welcome

- 1.1 The Chair welcomed everyone to the meeting in particular; a warm welcome was extended to the Chair, Members and Secretariat of the Independent Review of the Regulation of Legal Services Group.
- 1.2 The Chair advised that a private session would commence during which a free and frank discussion would take place between all parties and would not be subject to normal minuting protocols.

2. Review of the Regulation of Legal Services Group Remit

- 2.1 The Chair introduced both Members of the Board and staff to the Chair and Member representatives from the Regulation of Legal Services Group.
- 2.2 The Chair introduced the session with a short presentation on the SLCC's priorities for reform.

- 2.3 Ms Robertson advised that the remit for the Independent Review of the Regulation of Legal Services will be to review the Regulation of Legal Services in Scotland and in undertaking this review, to:
- consider what regulatory framework would best promote competition, innovation and the public and consumer interest in an efficient, effective and independent legal sector;
 - recommend a framework which will protect the public and consumer interest, promote the principles of accountability, consistency, flexibility, transparency, cost-effectiveness and proportionality;
 - ensure that the regulatory framework retains the confidence of the profession and the general public;
 - undertake specific research into the extent of the unregulated legal services market in Scotland and investigate any impacts on consumers, as well as developing a better understanding of the structure of the legal services market.
- 2.4 Discussion followed on various topics of mutual interest.
- 2.5 The Chair and Members thanked Ms Robertson and Review Group Members for their engagement. Members also echoed that they look forward to submitting their 'call for evidence' at the applicable time and offered, if the Review Group would like, to extend an invitation to come back for further discussions with the Board.

*11am ER, CMcL, LD, HD & SB all left the meeting, and Members took a comfort break
11.10am meeting resumed*

- 2.6 Members discussed the need for consumer input into our proposals. The CEO noted this would be important, but that it may be best to wait to see the public engagement work planned by the review group to avoid duplication. It was agreed that this, and other matters, would be explored further at the December Board Development Session.

3. Apologies

- 3.1 The Chair advised that Kay Springham would only be attending via telephone up to 11am, following which her apologies were submitted. Apologies were also noted from John Ferrie, F&CSM and David Buchanan-Cook, HO.

4. Declaration of Interests

- 4.1 No other declarations of interest were made.

5. Update on Anderson Strathern

- 5.1 The HI advised that the remaining 11 Appeals were progressing forward, with 2 cases going forward as test cases, in terms of the process for removing these from the court, with the other 9 hopefully following. Members noted the outstanding risk to the organisation, and that it was still possible eleven hearings could be required. Members also noted that the outstanding cases were progressing.

6. Management Information

- 6.1 The Chair advised that the additional analysis on production levels was very helpful in reading the report. It was also noted that the number of complaints had again increased in August to 107. Members were pleased to note that the average total Journey Time had decreased to 10.3 months.
- 6.2 The HI advised that whilst there was an increase in WIP, overall production output was still good, though it should be noted that we were still not experiencing the full benefit of the new CIs, who are still in training and on reduced targets. The HI reminded Members that production targets are gathered quarterly and might show a variance due to holidays, training etc.
- 6.3 The CEO reminded Members that Quarterly Management Information would be reported at next month's meeting.

- 6.4 The CM advised that within Clerking they were progressing cases quickly, with 90% of the cases having been at DC stage for 3 months or less and there have also been no continuations.
- 6.5 Members noted the other figures presented within the paper and thanked the HI and CM for their updates.
- 7. Finance Report**
- 7.1 In the absence of the F&CSM, the CEO spoke to the paper presented.
- 7.2 FMR – 2 months to 31 August 2017 – The CEO advised that these figures were for the first 2 months of this new Financial Year and the F&CSM was content that the figures were on track.
- 7.3 Members noted that a full update would be provided to the October Board Meeting.
- 8. Draft Annual Accounts for year ended 30 June 2017**
- 8.1 In the absence of the F&CSM, the CEO spoke to the paper presented. The CEO advised that from last year more narrative information was now required in the Annual Accounts. This now extensively overlapped with the requirements of the Annual Report. To avoid the version control issues of drafting these in parallel and ensuring amendments were reflected in both documents the Annual Accounts were being prepared and finalised first, and this would then allow the Annual Report to be quickly finalised thereafter.
- 8.2 The CEO drew Members attention to the main points to note in the draft Annual Accounts on:
- 8.2.1 Reserves – ended slightly below prediction at £421k (compared with £675k as at 30 June 2016).
- 8.2.2 Pension Costs – the LRPF predicted calculations were calculated at a 4% salary growth, this was incorrect and has now been recalculated on more realistic salary growth, with the figures are adjusted to reflect this fair value.
- 8.2.3 Accruals of Legal Expenses – due to the different layout of the document for our new Auditors Deloitte, this is accounted for differently.
- 8.3 The CEO reiterated that the balance sheet reflected a fair position for year-end and confirmed that the AC would be meeting early next month to formally approve the final accounts prior to presentation at the Board at the October Meeting.
- 8.4 Members noted the paper presented and also noted the tight timescale highlighted by the CEO for presenting the Accounts to Audit Scotland (31 October 2017)
- 8.5 The CEO also encouraged Members to provide any amendments or changes as soon as possible.
- 9. Appeals Update**
- 9.1 The CM spoke to the paper presented and provided an update on current appeals. It was noted that since the last update there had been three new Eligibility decision appeals and it was anticipated they would be opposing two of these and requesting a joint minute on the third. Of the ongoing Eligibility appeals one date has been set for a Leave Hearing which will now take place on 15 November 2017 and of the ongoing Determination appeals, again, a date has been set for a Leave Hearing on 8 December 2017.
- 9.2 With regards to ongoing expenses, it was noted that these are being progressed and that an update would be provided at the next Board Meeting.
- 10. Staff Temperature Check**
- 10.1 The Chair acknowledged that the result was an improvement on previous years, with more positive engagement which was encouraging. However, the Chair raised concern about the response score for Q7 within the survey.
- 10.2 The CEO advised that the Staff Representatives were holding a Workshop with staff and following this will feedback to the SMT. The CEO reiterated that the SMT had fully discussed the full output from the Staff Survey.

- 10.3 It was noted that whilst Members agreed with the Chair's concerns they were also encouraged that this on the whole was a good, positive Staff Survey, but stressed the concerns raised by staff need addressed.
- 10.4 The CEO agreed that an action plan will be agreed and reported to a future Board Meeting.

Action	Owner	Due Date
SMT to ensure that Staff Survey Action Plan is agreed and reported to a future Board Meeting for noting.	CEO/SMT	12 December 2017

- 10.5 Members thanked the CEO for his update to the paper and reiterated that this was a positive Staff Survey.

11. Customer Feedback

- 11.1 Members noted the paper presented by the CEO and agreed with the proposal for Quarterly reporting of data to the Board.

12. Legislative Change – Preparing for a Call for Evidence

- 12.1 Members noted the paper presented by the CEO.
- 12.2 The Chair suggested that Members might like to hold a separate Board Development Session to discuss this topic in detail. It was agreed this would take place at the December Board Development Session planned for Monday 11 December 2017.

Action	Owner	Due Date
CEO to finalise Agenda for Board Development Session in December to discuss Legislative Change – preparing for a Call for Evidence.	CEO	11 December 2017

13. Update on Draft Annual Report

- 13.1 Members noted the paper as presented and the CEO advised that a draft Annual Report should be presented to the October Board Meeting.
- 13.2 The CEO noted a draft would be distributed by email before the formal Board papers, and encouraged Members to provide any amendments or changes as soon as possible.

14. Update on Lease

- 14.1 The CEO advised that following the tendering process, the Tendering Panel met on 11 September 2017 to score and appoint the preferred bidder. The CEO confirmed that they have now appointed the firm of Eric Young, with Mr Neil McConnachie being the Senior Partner appointed to assist with this process. The CEO advised that information will be gathered with a view to a report being made to the Board and Minister within the agreed timescales.
- 14.2 Members suggested that it was important to consider the cost implications it would take to make our current space 'fit for purpose' and to factor in the additional responsibilities and length of lease. The CEO thanked Members for their input and agreed to consider these points along with a lease break clause. Members noted that SGvt had been very helpful in assisting with this process.
- 14.3 Members agreed that the CEO and F&CSM would progress matters and provide updates to the Board as the process progresses.

15. ABS Project Update

- 15.1 In the absence of the HO the CEO spoke to the paper presented.
- 15.2 The CEO advised that unfortunately they have just received the draft Guidance last evening from SGvt and this had still to be reviewed and considered. Draft regulations had not been received within the agreed timescales. It was agreed that further updates will be provided at each Board Meeting.

16. Consistent Decision Making

- 16.1 The CM spoke to the paper presented and following an overview advised that unfortunately until CAS is updated, they were still waiting to provide information for the Q2 data report.
- 16.2 Members noted the update presented.

12.15pm CIM2 joined the meeting

17. Mediation Overview and Update

- 17.1 CIM2 spoke to the paper presented and gave a brief update on current Mediation process of recruiting and interviewing a new Mediation Co-ordinator later this week. Members acknowledged the challenges of take up rates for Mediation and that a review of the Mediation process will take place once the new appointee commences.
- 17.2 It was noted that the next Bi-Annual Mediators' Meeting will take place on 9 November. Members Dunion, Hesp and Pringle requested to attend this along with the Chair.

12.20pm CIM2 left the meeting

18. Assurance Map

- 18.1 The CEO spoke to the paper and plan presented and reiterated that this plan will then help inform the Internal Audit Plan and other assurance work.
- 18.2 Members agreed to accept and adopt the proposed Operational Assurance Map plan. Thanks were extended to the AC for their work on this for presentation to the Board.

19. Raising Board Member Profiles

- 19.1 In the absence of the HO the CEO spoke to the paper presented. Members noted with interest the suggestions within the paper however, had reservations in attending Stakeholder meetings. In that, they would only attend where would be a purpose to them attending these events and not merely as an extra. Members also suggested more opportunities for engagement like they had this morning with the Independent Review of the Regulation of Legal Services Group, as they found this very beneficial.
- 19.2 The Chair enquired as to where we were to developing 'house style' for Investigation and Determination Reports. It was agreed the CEO clarify and report back to the next Board Meeting.

Action	Owner	Due Date
CEO to ascertain current status of 'house styles' for Investigation and Determination Reports.	CEO	20 November 2017

20. Oral Hearing Policy and Procedure Training for Members

- 20.1 It was agreed that this item would not be discussed and carried over till the next Board Meeting in October. The Legal Chairs would provide input beforehand.

21. Annual Review of Health & Safety Policy Statement

- 22.1 In the absence of the FO, the CEO advised Members that this paper was presented for formal approval of the annual H&S policy statement.
- 22.2 The Chair requested that reference be added to include that the H&S Committee met at least 2-3 times a year. Once this addendum has been added Members approved the Annual H&S Policy Statement.

Action	Owner	Due Date
CEO to ensure reference is added to the H&S Committee meeting 2-3 times a year.	CEO & FO	30 September 2017

22. Risk Register

22.1 The CEO spoke to the paper presented and advised that the revised Strategic Risk Register now contained the reviewed Risk appetite following discussions at the previous Board and AC Meetings. Members noted the paper presented.

23. Minute of the AC Meeting of 21 August 2017

23.1 The AC Chair gave a brief update on the recent AC Meeting and advised that a date had still be agreed for the AC to meet to formally approve the Annual Accounts, however this would be done prior to the next Board Meeting in October.

24. Terms of Reference for the AC

24.1 The AC Chair spoke to the paper presented. Members noted and agreed with the proposed minor suggested changes. Members approved the document.

25. Appointment of Interim Chair for AC

25.1 The Chair spoke to the paper presented. Members noted that the current AC Chair has intimated his preference to demit from office on 31 December 2017. Members agreed with the Chair's suggestion that Member Hynd be appointed as the Interim Chair of the AC, effective from 1 January 2018.

26. Board Actions Register

26.1 The Board noted all actions were on track for completion, with updates due to be presented to the October Board Meeting and agreed all completed actions should be removed from the register.

27. Minutes of Previous Meetings from 25 July 2017 and 21 August 2017

21.1 25 July 2017

The Minute of the Board Meeting was approved as read.

21.2 21 August 2017

The Minute of the Board Performance Call Meeting was approved as read.

28. Chairman's Report

28.1 The Board noted the paper presented.

29. Date of Next Meetings

29.1 The next Board Development Session will take place at 2pm on Monday 30 October 2017 and the next Board Meeting will take place at 10am on Tuesday 31 October 2017. The next Performance Call will take place at 10am on Monday 20 November 2017.

30. Chief Executive's Report

30.1 The Board noted the paper presented.

31. Update on SGvt Pay Policy and SLCC Pay Review

31.1 The CEO advised that the SGvt removal of the 1% cap on pay review will have no impact on this year's salary review. The CEO also advised that SGvt Pay Policy requested that our pay review date be brought forward to April. However the CEO advised SGvt Pay Policy that due to our statutory obligations, this date would not be suitable to the SLCC. It was noted that staff are aware that a pay review is taking place and the outcome of this will not impact this years' pay review. The Board will receive a full update regarding 2018/19 pay review next year.

31.2 Members enquired as to whether there was a Trade Union Representation within the organisation and wondered whether there was a move to change to a Trade Union Representation. The CEO advised that currently there was no Union Representation only elected staff representatives. The CEO noted that the PCS Union was shortly due to do a presentation to staff. SGvt policy was that unions should be given access when this is requested.

32. AOCB

32.1 Members enquired as to whether or not there was any interest noted for the drop in session for prospective Member applicants who might want to speak to current Members. The Chair and CEO advised that there has been no register of interest for this drop in session as yet.

32.2 The Chair thanked Members for their input to both meetings, which he reiterated have been very constructive and informative.

12.45pm Board Meeting ends

