

**MINUTE OF A MEETING OF THE MEMBERS OF THE SCOTTISH LEGAL COMPLAINTS
COMMISSION: 17:30 TUESDAY 11 October 2016 (by conference call)
Venue: The Stamp Office, 10 – 14 Waterloo Place, Edinburgh, EH1 3EG**

PRESENT:

LAY:

Bill Brackenridge (Chair - phone)
Kevin Dunion (phone)
Ian Gibson (phone)
Emma Hutton
Michelle Hynd (phone)
Sam Jones (phone)

LAWYER:

George Clark
Ian Leitch
Amanda Pringle (phone)

In attendance:

David Buchanan-Cook (HO) (phone) Caroline Robertson (HI)
Keith MacConnachie (CM) Neil Stevenson (CEO, Minutes)

1. Welcome

- 1.1 The Chair welcomed everyone to the meeting.
- 1.2 The Chair noted the Standing Orders (SO) relevant to the meeting.
- 1.3 Notice had been served two days in advance (SO 5.7). As a further assurance the meeting was properly convened the Members also unanimously AGREED to waive any notice period required (SO 5.8).
- 1.4 It was noted that the standing orders allowed business to be conducted with Members attending by conference call (SO 4.3), and that a decision could validly be made by way of conference call with Members having normal voting rights, as if in attendance.
- 1.5 It was noted that the Chair was usually required to be present in the office. Members unanimously AGREED to waive this requirement due to the need for a meeting to take place to allow a response to the Law Society of Scotland within a reasonable time period.
- 1.6 Members noted that this would allow a properly constituted meeting to take place. However, as a further assurance, and because of the nature of the decision, the Board AGREED that the decision should also be ratified at the next full Board meeting on 1 November 2016.

Action	Owner	Due Date
The Minute of this meeting to be presented to the next full Board meeting on 1 November 2016, and any decisions specifically ratified by that meeting.	CEO	01 November 2016

2. Apologies

- 2.1 The Chair advised that no apologies had been received and all members were present.

3. Declaration of Interests

- 3.1 No additional declarations of interest were stated.

4. Update on progress post the court ruling in Anderson Strathern vs SLCC

- 4.1 The Board noted the paper provided, and the progress made with notifying parties and applying a valid categorisation to cases.

- 4.2 It was noted that almost all parties had been contacted, and almost all categorisation work had taken place internally. The main issue was now awaiting agreement with the Law Society of Scotland on cases which overlapped with them, and on liaison restarting.
- 4.3 Members requested that their thanks be extended to staff for all the work in tackling the issues so quickly.
- 5. Proposal by The Law Society of Scotland re Anderson Strathern vs SLCC court ruling**
- 5.1 Members noted the paper provided, along with the copy of the letter from the Law Society of Scotland and the legal advice from Brodies on the process which would be involved in a 'Special Case'. Each was discussed in turn.
- 5.2 Members noted that there had now been four meetings and detailed discussions with the Law Society on all possible options prior to the SLCC taking a decision. No policy position was forthcoming from the Law Society, other than their legal advice which proposed an approach the SLCC board considered untenable.
- 5.3 It was noted that the SLCC had tried to proceed on a dialogue based approach, but as the Law Society had now committed their position and a statement on our decision making to letter, and that therefore the SLCC must respond in the same format and agree with or rebut key points where appropriate.
- 5.4 Members discussed in detail the opportunities, issues, and risks involved in the proposal from the Law Society. In particular, Members noted that this would involve parties being written to again, many cases being delayed, with further uncertainty created as parties were told a of another change of approach, and that the approach may still not give final certainty.
- 5.5 Members AGREED to decline the proposal, as it did not meet the SLCC's intention, nor that stated by the Law Society, of furthering confidence in the system as the implications of the Anderson Strathern decision are worked through.
- 5.6 Members AGREED that it should be noted to the Society that the categorisation of work (as either conduct or service), due to the 'nullity' of the previous categorisation, had now taken place and was a matter of fact. Any further work should be focussed on now getting clarity on their role, to allow cases to start moving through liaison (it was further noted 60 cases were waiting, currently unable to progress with liaison by the Society).
- 5.7 Members asked to be kept informed of the response of the Society. It was noted that there was a further meeting scheduled with the Law Society on 13 October 2016. Lorna Jack (CEO) and [REDACTED] (Operations) of the Law Society, and the CEO and HI from the SLCC would attend. Issuing a letter in advance of this meeting would then allow further discussion on the issue to take place.
- 5.8 The draft letter was noted. Members requested that the length be reduced, a clear structure put in place (starting with our response to the Society's proposition, setting out of our position on categorisation following the judgement of the court, emphasising our unambiguous legal advice, emphasising their prior knowledge that work was underway, and closing with our wishes for positive ongoing engagement). The tone should be robust and to the point, and not defensive. The Consumer interest should be flagged.
- 5.9 It was further noted that the pattern had been for the Law Society President to contact the SLCC Chair, where the Society was not content with an answer from the CEO. This may be the next communication. To ensure SLCC executive and the Members are working appropriately together, it was agreed a further draft letter would be circulated to all Members for comments, and that the Chair and Ian Leitch would also discuss the final draft the following day (Wednesday 12 October).

5.10 Noting that time was of the essence, the Members AGREED to delegate finalisation of a response to the CEO (following the process at set out at 5.9 above, but ultimately able to proceed if availability etc. caused issues).

Action	Owner	Due Date
The CEO to send a further draft to the Members and request comments	CEO	11 October 2016
The CEO to liaise with the Chair and with Ian Leitch on Wednesday 12 October	CEO	12 October 2016
The CEO to finalise a response to the Law Society of Scotland and dispatch this.	CEO	12 October 2016

5.11 With no other business the meeting concluded.

18:17 Board Meeting ends