

**MINUTE OF A MEETING OF THE MEMBERS OF THE SCOTTISH LEGAL COMPLAINTS
COMMISSION: 10AM TUESDAY 20th MARCH 2018**

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

PRESENT:

LAY:

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

LAWYER:

Denise Loney
Amanda Pringle
Kay Springham

Guest in attendance for Private Session:

Dame Janet Paraveska

In attendance:

John Ferrie (F&CSM) (Items 9, 12 & 13)
Caroline Robertson (HI) (Item 11)
[REDACTED] (secretariat – minutes Items 8-25)

Keith MacConnachie (CM) (Items 14 & 15)
Neil Stevenson (CEO) (Items 1-26)

Apologies:

None

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

Private Member only session

Members held a private session after which the Secretariat joined the meeting at 12.30pm, with SMT Members joining for relevant papers during the meeting.

1. Welcome

- 1.1 The Chair welcomed everyone to the Board meeting and thanked everyone for their input into the private member session.
- 1.2 The Chair also advised there was a slight change to the format of the Agenda, in that, SMT would be brought in for their specific department item discussions and future Agendas would be structured to reflect this format change.

2. Apologies

- 2.1 None received.

3. Declaration of Interests

- 3.1 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 and the call for evidence to Legislative change. The Chair also noted his declaration of interest in relation to the call for evidence to Legislative change.

Agenda Items 4-7 were included in the Private Member only Session

The Chair indicated that the Board had discussed the independent review of the management structure, a response from the CEO, and the link to the potential for, and timing of, changes to the core complaints process.

It was noted that a free and frank discussion between all parties. Decisions (excluding the below) were deferred and papers would be brought to future Board meetings on any substantive issues.

The Chair noted the one substantive decision, which would needed minuted in this formal part of the meeting, was the change of risk appetite on process related appeals from 'minimal' to 'open', which was intended to create the environment in which the executive could test different approaches, which may lead to efficiency savings.

8. Legislative Change – responding to call for evidence

- 8.1 The CEO spoke to the paper presented and confirmed that the previous tabled paper was revised taking into consideration Member's feedback. The Chair and Legal Members reiterated their declaration of interest in relation to this matter, as did the CEO, as a former member of the review group.
- 8.2 Members suggested a couple of further typographical changes and subject to these being amended, agreed and delegated the communication and submission to the CEO to revise and submit the presented paper to the Legislative Change Call for Evidence.

Action	Owner	Due Date
CEO to update presented paper to include Members suggested changes and following which submit paper to the Legislative Change Call for Evidence and ensure communication follows.	CEO	20 March 2018

12.40pm F&CSM joined the meeting

9. Levy and Budget Consultation

- 9.1 The CEO spoke to the papers presented and advised that one individual who had originally submitted comments within timescale, resubmitted a revised, updated copy amending typographical errors. The CEO advised that these typographical changes did not alter the original document presented to Members, and that a copy was available for inspection in the meeting should any member wish this.
- 9.2 The Board noted that five formal responses were received during the consultation process. Each response was considered in turn, and the points raised discussed by the Board.
- 9.3 The Board then noted each of the issues which the consultation paper had indicated would be the focus of discussion. Members considered both the consultation responses on these issues and also whether new SLCC data or information was available since the consultation had been launched. In light of that information they then considered the policy position of the Board on each issue.
- 9.4 Members sought clarification on the different levies imposed on different sectors, noting there were differences for in-house, advocates, commercial attorneys, those under three years' qualified, and so on. The CEO explained the history of these, and the current position.
- 9.5 Members also re-examined the key drivers of cost as set out in the consultation. It was noted that none of these had materially changed since the consultation was published. Incoming cases remained higher than any previous year, with a consistent 30 month trend of case increasing in each six month block. Following a free and frank discussion, Members agreed and recognised that there were various drivers of cost which could be apportioned in various ways, and that the detailed paper they had previously considered indicated a number of models could be justified in policy terms. However, in light of the lack of consensus in responses Members agreed that no change should be made this

year but that further work should be carried out actively over the following year to move towards an apportionment type levy, ie a 'polluter pays'.

- 9.6 Members agreed the final budget and its submission to Scottish Parliament in that:
- 9.6.1 8.5% levy proposed would be applied across the profession;
 - 9.6.2 to delegate to the CEO and F&CSM the finalisation and submission of the budget to be laid before Scottish Parliament;
 - 9.6.3 to delegate to the CEO the finalisation of communications of the final budget to the profession and Scottish Parliament; and
 - 9.6.4 the ABS Levies proposed in the consultation should now be set as the final levy.

Action	Owner	Due Date
CEO to update presented paper, to ensure communication follows and submit the final Budget to Scottish Parliament within timescale.	CEO	By 31 March 2018

1.15pm F&CSM left the meeting

10. Review of Staff Remuneration and Benefits

- 10.1 The CEO spoke to the paper presented. Following a free and frank discussion, Members agreed that the CEO would implement: the SGvt mandatory 3% increase to everyone on under £36,500 salary and 2% being applied to all other salaries, with the exception of the CEO, whose salary is reviewed separately. Members also agreed that the CEO would explore other pay and benefit options with SGvt.

Action	Owner	Due Date
CEO to explore options with SGvt.	CEO	By XX 2018

1.25pm HI joined the meeting

11. Management Information

- 11.1 The HI spoke to the paper presented and advised that WIP was again high but similar to January, at 841. The HI advised that incoming complaints received was 93 not 81 as reported, which is comparative to YoY figure of 108. The CEO noted that at the close of Q1&2 incoming numbers were up 8% YoY, but that the current prediction of the end of Q3 YoY position was around 3% up on the previous year.
- 11.2 Members sought clarification to ensure that CI's were also clearing 'older' cases and not just 'newer' ones, the HI confirmed they were and that the IMT met monthly to review every aged cases and ensure each one was being progressed if possible.
- 11.3 Members noted the other figures presented within the paper and thanked the HI for the update.

1.30pm HI left the meeting and F&CSM joined the meeting

12. Financial Management Report

- 12.1 The F&CSM spoke to the paper presented.
- 12.2 FMR – 8 months to 28 February 2018 – The F&CSM advised that the main fluctuations in Expenditure remain: 1) Direct staffs and Member costs are currently £75k below budget, 2) Members' costs are below budget and will be adjusted as required throughout the rest of this financial year, and 3) Indirect staff costs and Non staff costs are also showing underspends particularly in legal expenses, property and communication, further out-turn adjustments have been made to the year-end position. While staff costs look like a saving, they come at a cost, being caused by being unable to attract sufficient staff in several recruitment exercises, with WIP affected accordingly. The F&CSM advised that reserves are now anticipated to be in the region of £405k subject to any further pension provision fluctuations. The F&CSM also advised that the recovery of any further legal expenses will be reflected in the March FMR. Members noted that an

appeal had been submitted in relation the recent ET decision and further provision would be made.

- 12.3 **Balance Sheet** – The F&CSM advised that fixed assets were reduced with a book value of £48k, and SMT would carry-out a review of the CAPEX position for IT/figures and fittings now that the Lease review had been concluded. Members sought clarification as to whether there had been an allowance for replacement IT built into the assumptions. The F&CSM confirmed there was.
- 12.4 The Chair advised Members that following discussion it was agreed that the F&CSM would provide monthly FMRs to the SMT and Chair and Members would receive a Quarterly report, along with the AC. Members agreed.

Action	Owner	Due Date
F&CSM to provide monthly FMRs to SMT and Chair, with Quarterly FMRs to Board and AC meetings.	F&CSM	Ongoing

1.32pm CM joined the meeting

13. Indicative Case Costs for 2017/18

- 13.1 The F&CSM spoke to the paper presented and gave an overview of the data presented.
- 13.2 Members enquired as to whether this showed a comparator YoY and the F&CSM advised it was broadly similar and that this information could be shared with Members.
- 13.3 Members thanked F&CSM for his explanation to the paper, which they all agreed they found very helpful.

Action	Owner	Due Date
F&CSM to circulate a copy of comparator YoY data to Members.	F&CSM	By 31 March 2018

1.40pm F&CSM left the meeting

14. Appeals Update

- 14.1 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 one new Determination Committee appeal received.
- 14.2 With regards to ongoing outstanding expenses, it was noted that these are being progressed and that an update would be provided at the next Board Meeting.
- 14.3 Members noted overall the percentage of appeals were down YoY and thanked the CM for the update.

15. Oral Hearings

- 15.1 The CM advised that following a recent meeting with the Legal Chairs, it was agreed that Members delegated the review of the OH Policy and Procedure to the CM and Legal Chairs to review and bring a revised version to the Chair of the Board for final approval. The CM is proposing to review the procedure to make it less complex and apply to Section 9(1) Determination decisions.

1.45pm CM left the Meeting

16. Minute of the AC Meeting of 16 January 2018

- 16.1 The AC Chair gave a brief update on the recent AC Meeting and advised that following the IT Security Review, an outstanding action was tasked for the CEO to update the AC at their next meeting in April. The CEO confirmed that this task was in-hand along with the Cyber Essentials and the encryption of data, with the latter being completed as part of the June Newpro upgrade.
- 16.2 Members noted the paper presented and thanked the AC Chair for the update.

17. Consumer Panel Minutes and Update

17.1 Members noted the paper presented as read.

18. Risk Register Summary

18.1 The CEO spoke to the paper presented and advised that the Risk Register will be fully discussed at the next AC Meeting in April.

18.2 The CEO also advised that Risk 11 would be reviewed for the next AC meeting, in light of the ET Appeal being submitted.

18.3. Members noted the paper presented.

19. Policy Review

19.1 Members noted and approved the following two policies, subject to typographical changes being made and the inclusion of a link to the Board Code of Conduct for Members being added to 19.1.2 below:

19.1.1 GOV008 Policy and Process on Complaint Compliments about the SLCC.

19.1.2 GOV022 Policy and Process on SLCC – Raised Conduct Complaints.

20. Board Actions Register

20.1 The Chair noted the actions marked complete, but disagreed with Action 259 being marked as complete, it was acknowledged that a paper had been presented to the Board earlier in the meeting; however an additional piece of work was required from SMT, so subsequently this action still stands. Members agreed all other completed actions should be removed from the register.

21. Minutes of Previous Meeting from 30 January 2018 and 26 February 2018

21.1 The Minute of the Board Meeting from 30 January 2018 and the Performance Call of 26 February 2018 were noted approved as read.

22. Chairman's Report

22.1 The Board noted the paper presented.

23. Date of Next Meetings

23.1 Members noted the dates of the next meetings as:

- Board Development Session will take place at 2pm on Monday 30 April 2018
- Board Meeting will take place at 10am on Tuesday 1 May 2018

23.2 The Chair advised Members that it was his intention to move away from Performance Call Meetings but asked Members to keep all those Monday dates in their diaries as these dates could be utilised for extra DCs if appropriate.

24. AOCB

24.1 None.

25. Chief Executive's Report

25.1 The Board noted the paper presented.

26. Review of the Meeting

26.1 The Chair thanked Members for their input into both meetings.

26.2 With no other business the meeting concluded.

1.50pm Board Meeting ends

