

**MINUTE OF A MEETING OF THE MEMBERS OF THE SCOTTISH LEGAL COMPLAINTS
COMMISSION: 10AM TUESDAY 12th DECEMBER 2017
Venue: The Stamp Office, 10 – 14 Waterloo Place, Edinburgh, EH1 3EG**

PRESENT:

LAY:

Kevin Dunion
Sara Hesp
Michelle Hynd (Chair designate)
Sarah McLuckie

LAWYER:

Denise Loney
Amanda Pringle
Kay Springham

In attendance:

Keith MacConnachie (CM) (Items 1-17)
Neil Stevenson (CEO) (Items 1-17)
[REDACTED] (secretariat - minutes)

Caroline Robertson (HI) (Items 1-17)
[REDACTED] (CIM3) (Item 6)

Apologies:

Bill Brackenridge (Chair), Emma Hutton, David Buchanan-Cook (HO) AND 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

Private Member only session in the presence of the CEO

Due to the unforeseen circumstance of the Chair having taken ill overnight, it was agreed that the CEO and Members would hold a private session to review, consider and discuss the Standing Order Policy Governance arrangements and process that should be implemented in situations such as this.

This discussion was chaired by Legal Member Kay Springham. Legal members are not eligible to chair the Board meeting, and this ensured there was no conflict.

The CEO noted Section 7.5 of the GOV002 Standing Orders v02.03 2017.07 Policy;

7.5 For the purposes of enabling the business of the Board to be conducted in the absence of the Chairing member, the Chairing member will appoint a non-lawyer Member to act as Vice Chair and any person so appointed will hold office for such a period as the Chairing member may decide.

Unfortunately, as the Chairing Member was ill at short notice and unable to appoint a non-lawyer Member to act as Chair or Vice Chair for today's meeting.

Members therefore discussed Section 2.2:

2.2 In the absence of the Chairing member, unless an acting chair has been appointed by the Chairing member, the members present at such a meeting shall elect one of their number, a non-lawyer member, to act in the place of the Chairing member.

Members discussed and agreed during this private session with that Member, Michelle Hynd would become Chair designate for the Board Meeting today.

10.35am SMT and Secretariat joined the Meeting

1. Welcome

- 1.1 The Chair designate welcomed everyone to the meeting.
- 1.2 The Board ratified their decision from the private session as to the Chair designate for this meeting, as narrated above.

2. Apologies

- 2.1 The Chair designate noted that apologies were received from Chairing Member, Bill Brackenridge and Member, Emma Hutton and also from the David Buchanan-Cook, HO and John Ferrie, F&CSM.

3. Declaration of Interests

- 3.1 Member, Denise Loney declared an interest in relation to the forthcoming Appeal paper. Member Loney advised that she had recused herself from participating in a discussion at a SLAB Committee, as one of the SLCC Appeal cases was due to be discussed, where the Complainer had submitted a request for Legal Aid. The Appeals paper on the agenda today was for noting only, so no conflict arises.
- 3.2 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 any budget discussions.

4. Management Information

- 4.1 The HI spoke to the papers presented and advised that overall production was good this month. It was noted that both WIP and incoming cases had also continued to increase again this month. An all-time high of 123 incoming cases was noted, and the trend of four 100+ months in a row, which had never been seen before.
- 4.2 The HI advised that the CI recruitment process had commenced, with interviews taking place over 3 days later this week. It was anticipated that SMT hope to appoint 4 new CIs for start dates in January 2018, this will take into account the long-term sickness and a forthcoming maternity leave, which is due to commence in March 2018. The CEO also advised that of the recent Administration recruitment, only one offer was made, however, discussions are in place with the possibility of offering a position on the Modern Apprentice Scheme, which will allow us to tap into other skill areas.
- 4.3 The CM advised that there had been an increase in cases being issued at DC stage in November and it was anticipated that the 3 cases which were older than 6months at DC stage would be concluded in December.
- 4.4 Members noted the other figures presented within the paper and thanked the SMT for their updates.

5. Finance Report

- 5.1 In the absence of the F&CSM, the CEO spoke to the paper presented.
- 5.2 FMR – 5 months to 30 November 2017 – Members noted the figures presented and sought clarification as to why Member costs were 'significantly' below budget. The CEO explained this was due to building in a 'phasing' for new Members commencing and previous projected costs for new Members travel which included geographical assumptions within the figures, and as most of our current Members are within the central belt (in contrast to previous Boards) it was anticipated that costs could be reduced to reflect this.

- 5.3 The CEO advised that both he and the Finance Officer had a meeting with the Lothian Pension Fund Managers to explore further implications of any pension scheme shortfalls and it was agreed that a further actuarial valuation would be obtained looking at a different set of assumptions, which when received would be considered fully by the Audit Committee. It is hoped that new actuarial valuation would show potential cost savings. Members sought clarification as whether any cost savings in the budget would move into the reserves? The AC Chair confirmed they would and could go forward to potentially reducing a future Levy. The CEO also confirmed this was a correct assumption.
- 5.4 Members noted the overview of the Balance Sheet figures presented with the FMR and thanked the CEO for his explanation to the papers presented.

10.50am CIM3 joined the Meeting

6. Appeals Update

- 6.1 The Chair noted the previous declaration of interest made by Member Loney in relation to an ongoing DC stage appeal.
- 6.2 CIM3 spoke to the paper presented and gave an overview on ongoing new appeals which have been received since the last Board update. It was noted that in relation to the ongoing appeals that one case has now gone for taxation and the outcome of this is awaited.
- 6.3 CIM3 reminded Members that the current percentage number of appeals in the system is comparatively low in relation to the overall number of complaints accepted into the system.
- 6.4 Members thanked CIM3 for his explanation and update on the ongoing appeals.

11am CIM3 left the Meeting

7. Approval of SLCC Budget and Operating Plan 2018/19

- 7.1 The CEO spoke to the paper presented and reminded Members that there was a requirement to finalise the Budget for 2018/19 today (as this could not be delegated by the Board) and finalise the Operating Plan, although further work can be delegated to the CEO and SMT. It was noted the Operating Plan will be continually reviewed by SMT right up to the issuing for consultation.
- 7.2 Members sought clarification as to the difference between Direct Case Costs and Corporate Legal Costs. The CEO explained that Direct Case Costs were in relation to specific case costs, ie the AS appeal costs, and Corporate Legal Costs would include legal costs in relation to advice on areas such as the signing of the lease and legal procurement, or advice on GDPR implementation.
- 7.3 The Chair designate noted the reduction in the proposed levy compared to some projections in papers reviewed at previous Board meetings. The CEO indicated that throughout the budgeting process the CEO and FCSM continued to apply 'downward pressure' on all budget assumptions. The Board questioned whether the resourcing was fully sufficient – as staffing increased to cope with the 'new normal' increased caseload there was a particular concern at strain on management resource around further efficiency and productivity work and quality assurance. The Board sought clarification as to whether or not the resourcing model proposed allowed any variation of management capacity to drive delivery. The CEO responds that the model did not. The Board sought clarification on current case trend prediction, and the CEO confirmed that incoming case trend continued to suggest ongoing increases. Members were in agreement that this was a concern and suggested a 1-2% increase to allow future consideration of management capacity to deliver the targets agreed.

- 7.4 Board Members discussed the original models presented at the September Board meeting, and were in agreement that the current proposal as too budget was too low within the justifiable range as to be appropriate, and that a further 1% was required to bring the resourcing budget in line with realistic projections of workload. The Board noted it could not delegate the setting of the budget to the CEO, and so specifically instructed the CEO to add 1% to the proposed budget. The Board delegated finalisation of the Operating Plan to the CEO (with the support of the SMT).
- 7.5 The Board also questioned the ABS costs, noting the recovery suggested was low compared to the estimated costs documented, which were in turn low compared to likely true cost. The CEO noted that recovery must be phased to ensure there was no barrier to entry to the market for potential new entrants.

Action	Owner	Due Date
SMT to finalise the Board on Development of SLCC Budget and Operating Plan 2018/19 prior to consultation, and instructed the CEO to include a 1% further levy increase.	CEO/SMT	1 January 2018

8. Approval of Lease recommendation

- 8.1 The CEO spoke to the final submission paper presented and advised Members of the current situation regarding the lease-break clause due to the review of legal regulation. Following discussion Members agreed with the CEO that the final submission was the best option suitable to the SLCC to be put forward to SGvt. Members also agreed that the option proposed is the best one for business continuity and cost savings to the business and stakeholders. Members suggested that the CEO reword the outstanding action regarding the break-clause and propose the final recommendation to SGvt. The AC Chair also advised that the AC had considered this paper in detail at their last meeting and were fully in agreement with the proposed paper.
- 8.2 Members noted and agreed that there was a very thorough methodology included in the proposed paper and that SMT should submit this to SGvt.

Action	Owner	Due Date
SMT to finalise the Lease Business Case and submit this immediately to SGvt.	CEO/SMT	14 December 2017

9. CEO Updates Report

- 9.1 The CEO spoke to the paper presented and Members noted the new format paper for the SMT updating on key issues which do not require full papers. The CEO advised that since the paper was produced, the planned ABS meeting scheduled for 4 December 2017 with SGvt was cancelled and has been rescheduled for 25 January 2018; also the implementation date for ABS appeared to be moving from 1 April 2018 to July 2018, it is clear that timescales are now slipping.
- 9.2 Members sought further clarification regarding the Legal Services Panel Tender Exercise as to why the preferred option was three firms and not two. The HI explained the reasoning for this (linked to conflict and diversity of advice) which was accepted by Members, and noted our tender approach would be open and designed to assist assessing if the award of two contracts would achieve a keener price which outweighed drawbacks (and noted that we always reserved the right to appoint 'off panel').
- 9.3 Members noted the assumptions included in the Review of Staff Remuneration package which was approved as part of the current Operating Plan for 2017/18. The CEO advised that due to our funding model, special dispensation has been granted that we do not need to comply with the new 1 April 2018 date imposed by SGvt, our date would remain at 1 October 2018. The Chair enquired as to whether the SGvt 1% rise had been included within the budget assumptions and the CEO confirmed it had, which was the same as the previous year.
- 9.4 Members noted that a satisfactory position had been achieved with Deloitte, the External Auditors, regarding the service provided since their appointment. The CEO also advised that to-date the F&CSM had not been approached for feedback from Audit Scotland.

9.5 The Chair designate sought the views of Members as to whether or not the format of this paper was informative and beneficial and Members agreed they wished the SMT to continue with this helpful format.

10. Transition Arrangements

10.1 The Chair designate sought clarification from the CEO as to whether or not we were confident that we would receive the names of the new Chair and Member for commencement on 1 January 2018. Members reiterated that they should have a plan in place to allow for transition arrangements if this information was not available from SGvt.

10.2 Following discussion the Chair designate agreed that Members should consider and agree on:

- who should Chair designate the next Board Meeting in January,
- who should agree in advance the preparation of the Agenda for the January Board Meeting, and
- who should provide pastoral support to the CEO during this period.

10.3 It was proposed that should today's Chair designate wish to also be Chair designate for the next Board Meeting, Members would be happy to propose this. The Chair designate offered the position for nominations to other lay Members and the offer to Chair the January Board was received from another Member, if the Chair designate would like assistance. The Chair designate thanked Members for their input and following discussion it was agreed that the Chair designate of today's meeting, Member Hynd would be the Chair designate for the January Board Meeting, should a new Chair not be in place, and that she would liaise with the CEO to prepare the Board Agenda and also liaise on normal SLCC matters during the transitional period of the new Chair and Member being appointed.

11. Risk Register

11.1 The CEO spoke to the paper presented and advised that the Risk Register had been fully discussed at the recent AC Meeting. The AC Chair confirmed this and added that it was very good to have the Member Development discussion yesterday on GDPR which relates to Risk 15 - the failure to be compliant on time with the GDPR.

11.2 A Member sought clarification on Risk 1 - as to what type of external statistical advice was being sought on complaints trends statistics? The CEO advised this was in the formation of predictive model information, obtaining outside assistance from Mike Titchen of 100% Effective, with the checking of mathematical production of information.

11.3 Members suggested that Risk 11 be reworded to ensure that Board, as well as SMT, were involved in a 'lessons learnt'. The CEO confirmed this was the agreed intention with the Chair, and the wording would be changed accordingly, and also agreed to ensure that the Strategic Risk Register will be reviewed to reflect the Risk appetite following these discussions. Members noted the paper presented.

12. Update from Audit Committee Meeting of 23 November 2017

12.1 The AC Chair spoke the circulated copy of the draft AC Minutes from 23 November 2017 Meeting and gave an overview of the meeting to Members of the Board.

12.2 Members noted the planned Internal Audit projects, the Cyber Security update information which was sent to all Public Bodies and also that the AC would be carrying out the periodic review Member Expenses in January.

12.3 The Chair designate thanked the AC Chair for his update and for his valued contribution to the AC during his term of office.

13. Board Actions Register

13.1 The Chair designate noted all actions were complete other than:

- Action 242 – the CEO advised that the information had now been received from the Staff Reps and an update will be provided at the January Board Meeting once SMT have reviewed this.

- Action 244 – it was noted this had been tasked to the DC Legal Chairs Meeting and it was agreed that a small Working Group would be set up to review templates and styles used. This action was not complete, so the grey shading would be removed.
- 13.2 Following on from this action Members discussed whether or not this would be the correct mechanism for all Members to input into the process, in particular with the concerns they had on the current way they provide feedback and categorising of cases. Members suggested that this could be a topic for a Board Development Session, however, it was agreed that the CEO would review the action in the Operating Plan and develop a work plan using specific examples, in order to move this action forward with the Board.
- 13.3 Members agreed all completed actions should be removed from the register.

14. Minutes of Previous Meeting from 31 October and 20 November 2017

- 14.1 The Minute of the Board Meeting from 31 October 2017 was approved as read.
- 14.2 The Minute of the Performance Call Meeting from 20 November 2017 was approved as read.

15. Chairman's Report

- 15.1 The Board noted the paper presented as read.

16. Date of Next Meetings

- 16.1 Members noted the dates of the next meetings are:
- Board Development Session will take place at 2pm on Monday 29 January 2018
 - Board Meeting will take place at 10am on Tuesday 30 January 2018
 - Board Performance Call will take place at 10am on Monday 26 February 2018
- 16.2 The Chair sought clarification as to the requirements of existing Members and their attendance for the new Chair and Member Induction dates on Monday 15 and Tuesday 16 January 2018. The CEO explained that the Induction programme and reminded them that they have all been invited to a Board Member dinner on Monday 15 January 2018. The CEO agreed to circulate a copy of the Induction programme to Members.

Action	Owner	Due Date
CEO to circulate a copy of the planned new Chair and Member Induction programme to existing Members.	CEO	15 December 2017

17. AOCB

- 17.1 New Member Laptops – Members recorded their thanks for the new laptops and asked that this be passed on to the FO. The CEO advised that they will need to be brought back in for a Hewlett Packard update but the FO will advise when NVT are ready to carry out this task.
- 17.2 Disclosure of Board Member Names who sit on DC (FOI) – Members sought clarification as to whether they should be concerned as to why the FOI Officer was seeking permission to release individual Members' names from particular DCs. It was explained by Member Dunion that the FOI Officer has to ask every time a request is received as this is Members' personal data which is FOI'able.

18. Chief Executive's Report

- 18.1 The Board noted the paper presented. Members sought clarification on the enquiry with Chime and the CEO explained that this was a firm which sets up appointments/experts to speak to relevant bodies, and that the payment received for providing this service was donated to the SLCC staff charity.
- 18.2 The CEO advised that the new Chair would hopefully meet with both the current President of the LSS, along with the Vice President which will ensure continuity of engagement between both offices.

19. Review of the Meeting

- 19.1 The Chair designate thanked Members for their input to both meetings and reiterated they have been very constructive and informative.
- 19.2 Thanks were also formally recorded to the Chair, Bill Brackenridge and Member, Kevin Dunion for their valued contribution and hard work to both the Board and AC during their 5year term of office.

12.45pm Board Meeting ends

