

**MINUTE OF A MEETING OF THE MEMBERS OF THE SCOTTISH LEGAL COMPLAINTS
COMMISSION: 10.15 AM TUESDAY 28th JULY 2015**

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

PRESENT:

LAY:

Bill Brackenridge (Chair)
Iain McGrory (Vice Chair)
Kevin Dunion
Ian Gibson
Sam Jones

LAWYER:

George Clark
Ian Leitch
Maurice O'Carroll

In attendance:

Neil Stevenson (CEO)
[REDACTED] (F&CSM) (Items 1-19)
[REDACTED] (HRA/MA) (Items 1-19)
[REDACTED] (HI) (Items 1-19)

[REDACTED] (HRM) (Items 1-19)
[REDACTED] (CIM2) (Items 1-19)
[REDACTED] (CM) (Items 1-19)
[REDACTED] (Secretariat, minutes)

Apologies:

Fiona Smith and [REDACTED] (HO)

Abbreviations used:

| | |
|--------------------------------------|--|
| LSS – Law Society of Scotland | RPOs – Relevant Professional Organisations |
| SGvt – Scottish Government | AC – Audit Committee |
| HO – Head of Oversight | F&CSM – Finance and Corporate Services Manager |
| HI – Head of Investigations | CM – Clerking Manager |
| WIP – Work in Progress | DC – Determination Committee |
| SMT – Senior Management Team | FMR – Financial Management Report |
| FoA – Faculty of Advocates | CIM2 – Case Investigations Manager 2 |
| ADR – Alternative Dispute Resolution | FO – Facilities Officer |

1. Welcome

1.1 The Chair opened and welcomed everyone to the meeting, especially our new CEO, Neil Stevenson. The Chair recorded his thanks on behalf of the Board to the SMT for their role in carrying out additional duties until the appointment of the new CEO.

2. Apologies

2.1 The Chair advised that apologies had been received from Fiona Smith.

3. Declaration of Interests

3.1 It was noted the standard Declarations of interest were declared by George Clark, Ian Leitch and Maurice O'Carroll in relation to any pecuniary interest with regards to budget discussions.

4. Management Information & KPIs

4.1 The HI spoke to the paper presented and advised Members that a Working Group would be meeting to review the collation of the MI statistics. This would ensure that the correct data is gathered within the Newpro Reports, thus formulating information which is required by the Board

4.2 It was noted that the figures presented today now showed data gathered from 1/7/14-30/6/15.

- 4.3 **Enquiry & Eligibility** - The HI advised that whilst the total number of Enquiries received to date had increased on last year, the total number of Complaints received had dropped slightly on last year. Members noted that the overall Journey time of a case had increased and reiterated their concern that possibly the Investigations team was not adequately resourced, and that this could lead to a downturn in the processing of cases. The HI explained that due to the ongoing staffing issues within Investigations, they have now also recruited an extra 2 x permanent Case Investigators over and above the 2 x 12 month contract ones they had previously recruited. It was also hoped that once all training had been completed, Members should see a reduction in the Journey time of cases within all stages of the system. The HI reiterated that whilst there were the equivalent of 16FTE Investigators they would not all be back in their own roles until towards the end of this year and the balance of resources would be discussed within the SMT.
- 4.4 **Mediation** - The HI advised that the research project being undertaken by QMU was now underway and Members looked forward to reviewing the output from this research. The Chair noted that whilst the success rate of Mediations was encouraging it was disappointing that the overall uptake was still not as good as it was hoped.
- 4.5 **Investigation** – The HI advised that as with Enquiry & Eligibility the same reasoning applies to the increase in overall Journey time of cases sitting within Investigations. Members noted that the deployment of resources within the organisation was a matter for the SMT, however they enquired as to whether or not the SMT found the ‘start to finish’ process worked better than having separate ‘team’ functions dealing with Enquiries, Eligibility and Investigations. The HI advised that whilst staff appreciate and understand the requirements of having the flexibility of carrying out all areas of work, they felt it was more productive to utilise individuals’ strengths, so SMT would be reviewing the process slightly. Members welcomed this approach.
- 4.6 **Determination** - The CM advised that whilst there had been an increase in the number of cases that were now sitting over 6 months, they had been concentrating on the ‘older’ cases. The CM also advised that the team would be soon back-up to full complement of Clerks which would allow the seconded Clerk to return to Investigations.

| Action | Owner | Due Date |
|---|-------|----------------|
| The Chair requested that the HI include a definition of ‘Journey’ time and ‘Working’ time future MI papers. | HI | 25 August 2015 |

- 4.8 **WIP** – The HI advised that there had been a decrease within the Eligibility and Mediation stages though there had been an increase within the Investigation and Determination stages for the overall WIP for June.
- 4.9 The Chair thanked the SMT for their update to the paper today and noted that the figures presented, which were closer to how they would like them reported. The CEO advised that the SMT were striving to get to a point that it was a standard ‘pull-off’ of data required for MI and a meeting would be taking place later this week to gather ideas of how this is reported to the Board.
- 4.10 Members thanked the SMT for their updates and explanations to the paper and noted the figures presented.
- 5. Appeals Update**
- 5.1 The HI explained that the paper presented today was more detailed and took into accounts the points raised by Members.
- 5.2 The CIM2 advised that since the paper had been prepared for the Board, there had been an additional Appeal received.

- 5.3 Members requested that it be noted that it was a decision of the last Board Meeting that the Legal Chair of a DC would be involved in all steps of the Appeals process and that an Appeals process document should be drafted to reflect this. It was agreed that this process would be drafted by the CM and CIM2 for discussion at the next Board Meeting.

| Action | Owner | Due Date |
|--|-----------|-------------------|
| CM and CIM2 to draft an Appeals process document for the next meeting. | CM & CIM2 | 29 September 2015 |

- 5.4 Discussion took place regarding whether or not one of our legal advisers had previously given advice on the assessment of 'hybrid' issues and it was agreed that Members, M O'Carroll and I Leitch would meet with the CM and CIM2 to discuss and report back to the next Board Meeting.

| Action | Owner | Due Date |
|--|--------------------|-------------------|
| Members (MOC and IL) to meet with CM and CIM2 to update the Board at the next meeting. | MOC, IL, CM & CIM2 | 29 September 2015 |

- 5.5 It was also suggested that until this matter was resolved these legal advisers be excluded from acting in relation to future 'hybrid' Appeal cases.
- 5.6 The Chair requested that a review of all cases be carried out to ascertain whether advice had been sought in relation to this 'hybrid' matter.

6. Finance Report

6.1 FMR – 12 months to 30th June 2015

- 6.1.1 The F&CSM spoke to the FMR papers presented and advised that as we were now at the end of this financial year the Annual Accounts were on track for auditing, which was good news. The F&CSM advised that he was content with the figures as presented. Members noted that the pre-audited figure would see a deficit of £20k, which includes a provision of £8k for additional pension liabilities. It was noted that this provision would be revised upon receipt of the year end actuarial valuation from Lothian Pension Fund. This subsequently sees reserves at year end of £717k.
- 6.1.2 The F&CSM also gave an overview of the Balance Sheet figures which were presented along with the FMR.
- 6.2 Members sought clarification as to the increase in pension liabilities and the F&CSM explained that he was due to attend a meeting the following day with other organisations who have staff in this particular pension scheme. It was agreed that the F&CSM would provide an update paper for the next Board meeting.

| Action | Owner | Due Date |
|---|-------|-------------------|
| F&CSM to provide an update paper to the Board on Lothian Pension Fund implications to the SLCC at the next meeting. | F&CSM | 29 September 2015 |

- 6.3 Members sought clarification as to when the External Auditors would be in attendance to audit the final accounts and the F&SCM advised they would be in week commencing 24 August for one week. The AC Chair advised that once the accounts had been finalised they would be presented to an extraordinary AC meeting which will take place prior to the September Board meeting.
- 6.4 Members thanked the F&CSM for the papers and his explanation to the figures as presented today.

7. Communications & Oversight Update

- 7.1 In the absence of the HO this paper was noted as read.

8. ADR Update

8.1 The Chair provided an update, in that, unfortunately at present he was unable to obtain a definitive answer from the SGvt Sponsor Department. The Chair tasked the CEO with taking forward the required changes to our Rules and the provision of changes to the Act with the HO.

9. Consumer Panel Update

9.1 In the absence of the HO this paper was noted as read and after discussion it was agreed that the Board approved the appointment of Ms Julia Clarke to the SLCC Consumer Panel.

9.2 Members also noted the content of the Consumer Panel's Minute of meeting of 1 May 2015 and asked that whilst the Panel might not have received any gifts or hospitality, Members requested that a register be set up to record a NIL entry rather than there not being a need to have a register. It was agreed that the CEO would liaise with the Consumer Panel Chair regarding this matter.

| Action | Owner | Due Date |
|---|-------|-------------------|
| CEO to liaise with the Consumer Panel Chair regarding the recording of a Gifts and Hospitality Register for the Consumer Panel members. | CEO | By 31 August 2015 |

10. Conference Call Facilities Update

10.1 The F&CSM circulated a copy of the BT Conferencing facilities that the FO has arranged and spoke to the paper presented.

10.2 The F&CSM also advised that NVT are also testing the use of the new Business Skype facility which has been launched and will update the CEO as soon as this has been completed.

10.3 The Chair asked that a paper on the security risks/issues with the use of Skype be presented at the next Board meeting, as he is aware that some other organisations do not use this as a means of contact as it is regarded as an unsecure means of communication.

| Action | Owner | Due Date |
|---|------------|-------------------|
| F&CSM and FO to provide an update paper to the Board on security implications of Skype to the SLCC at the next meeting. | F&CSM & FO | 29 September 2015 |

11. Oral Hearing Procedure/Process Update

11.1 The CM spoke to the paper presented. The CM advised that he had now received clarification on whether a single Member can deal with a request for an OH for preliminary decisions during the process and confirmed that it was an administrative decision which can be considered by a DC.

11.2 Members discussed the practicalities of this process and confirmed that requests for an OH on an Eligibility decision would be considered by a DC and if this request was granted, then it should be heard/conducted by a DC.

11.3 It was agreed that the CM would update the OH Policy and Procedure to reflect the Boards decision.

| Action | Owner | Due Date |
|---|-------|-------------------|
| The CM to update the OH Policy and Procedure. | CM | By 31 August 2015 |

11.35am comfort break 11.40am meeting resumed

12. Review of Reporters

- 12.1 The HI spoke to the paper presented and sought permission from the Board to continue with the use of Reporters, until such time as the SMT were able to discuss in more detail, the long-term use, with the CEO and also till the new Case Investigators were fully trained.
- 12.2 Members acknowledged that the use of Reporters solved an issue at the time but it was never their view that this would be the 'ideal' model. The CEO acknowledged this and it was agreed that a future discussion should take place on what the split should be regarding the use of Reporters going forward. It was agreed that this would be a discussion topic at the Board Development Session.

| Action | Owner | Due Date |
|---|-------|----------------|
| CEO to add this to the Agenda for the next Board Development Session. | CEO | 25 August 2015 |

13. Outgoing Members and Avoiding Inquorate Determinations

- 13.1 Members noted the paper as read, but felt that some of the proposed timescales within the paper were erring on the conservative side of caution. The Chair suggested that it would for the CM to use his discretion to adjust these timescales as and when required.
- 13.2 Members approved the paper as presented.

14. Minutes of Meetings from 26 May 2015 and 23 June 2015

- 14.1 26 May 2015
14.1.1 The Minute of the Board Meeting was approved as read subject to minor typographical changes to paragraphs 4.7 and 5.2.
- 14.2 23 June 2015
14.2.1 The Minute of the Performance Management meeting was also approved as read.

15. Board Actions Registers

- 15.1 The Chair provided Members with an update on the actions register. Members noted the updates and all cleared items had been removed from the Actions Register.

16. Matters Arising from 26 May 2015 and 23 June 2015

- 16.1 There were no matters arising to be discussed.

17. Chairman's Report

- 17.1 Members noted the meetings undertaken by the Chair and the Chair confirmed that he has now commenced discussions with the SGvt Sponsor Department regarding the appointment of new Commissioners to the SLCC.

18. Audit Committee Membership

- 18.1 Members noted the paper as presented by the Chair and confirmed their approval of Kevin Dunion joining the AC with immediate effect.
- 18.2 Members also agreed that when the current AC Chair, Iain McGrory demits from office, Kevin will assume responsibility as AC Chair.

19. Consistent Decision Making

- 19.1 Members noted the paper as presented and confirmed their agreement that the Working Group be charged with moving this forward.

12.05pm SMT left the meeting

20. CEOs Probationary Performance Targets

20.1 Members noted and agreed the proposed first 90 day working targets for the new CEO, which the Chair has agreed with the CEO.

21. Members Expenses Working Group

21.1 Members noted the paper presented by the AC Chair and agreed with the need to ensure there was a consistent approach to the application of expense codes and that the Policy was fair and open. The proposals were not adopted as it was decided that further proposals would be presented to the next Board meeting.

| Action | Owner | Due Date |
|---|-------|------------------|
| The AC Chair and CEO to liaise and bring further proposals to be presented to a future Board Meeting. | CEO | 24 November 2015 |

22. AOB

22.1 Consultation on Client Protection Fund – Members noted that this Consultation was now open and the CEO confirmed that this was in hand for an update at the next Board Meeting in September.

23. Date of Next Meeting

23.1 Members noted that a Board Development Session commencing at 9.30am on Tuesday 25th August 2015 with the next Performance Management meeting will take place later that day at approx. **2.30pm**. The next full Board meeting will take place on Tuesday 29th September 2015, commencing at **10.15am** followed by a Board Development Session commencing at **1.30pm** at the Stamp Office 10 – 14 Waterloo Place, Edinburgh, EH1 3EG.

Board Meeting ends at 12.20pm