

# Oversight Team Update

## Scottish Legal Complaints Commission



**Author:** Alison Marron & Faiza Anderson

**Recipient:** Board Members

**Date:** 25 September 2012

### 1. Purpose

- 1.1 To provide Members with an update on the following areas of Oversight activity:
- Oversight Strategy and Work Plan; and
  - Progression of Timescales audit

### 2. Key Points

- 2.1 The Oversight Team has compiled a Work Plan of projects which the team envisage will be carried over the course of the next four quarters.
- 2.2 The Timescales audit report is still under management review. Due to the absence of the Case Investigation Manager, it is not available for Board consideration at the September meeting, as originally envisaged. The audit report will be made available to the Board before being issued to the LSS.

### 3. Conclusions

- 3.1 The Oversight Strategy and Work Plan provides the Oversight Team with a framework to carry out the identified activities and projects over the course of the next year.
- 3.2 It is likely that the Work Plan will be expanded as further projects are identified throughout the course of the year.
- 3.3 Provided that the Oversight Team is adequately resourced, the SLCC's Strategic Objective (3), and the team's new strategic objectives and aims should be met.

### 4. Resource Implications

- 4.1 The resource requirements of the Oversight Team are still being considered by the CEO as part of the SLCC's reorganisation.
- 4.2 The Oversight Work Plan (2012 – 2013) identifies where there are risks to projects due to lack of resources within the team.

### 5. Recommendations

- 5.1 To consider and approve the Oversight Strategy.

### 6. Action required

- 6.1 To approve the Oversight Strategy.

## 7. Risk

### 7.1

Risk Register Risk No	Description	Impact of this report
21	If the SLCC does not have an appropriate Oversight Strategy and Work Plan in place against which progress is monitored and evaluated, it may fail to deliver its oversight function effectively and in line with statutory requirements.	The Oversight Team is progressing work in terms of monitoring and reporting on the actions of the RPOs, but further work is necessary regarding the structure and role of the Oversight Team in order to meet all the requirements of the Legal Profession and Legal Aid (Scotland) Act 2007 and the Legal Services (Scotland) Act 2010.

**Table of Contents**

**1 Introduction..... 5**

**2 Objectives ..... 5**

**3 Oversight Strategy..... 6**

**4 Work Plan ..... 7**

**Appendix 3 - Document Information ..... 9**

    Record of Document Changes ..... 9



# 1 Introduction

- 1.1 At the Board Meeting on 19 June 2012, the CEO and the Oversight Investigator were asked to produce a proposal for the SLCC's Oversight Strategy, to include details of the following:-
- (i) Focus/direction of oversight work;
  - (ii) Gathering insights and capturing trends;
  - (iii) Communicating internally and externally;
  - (iv) Structure and management of the Oversight Team;
  - (v) Relationship between the Oversight Team and the Board; updates/reports; and 'sign-off' for audit reports.
- 1.2 On 20 August 2012, the Oversight Team presented the Board with a brief outline of the proposed Oversight Strategy. The Board indicated that it was generally happy with the overall objectives and strategy presented in that paper. In addition, the Board asked that consideration be given to the impact that the Legal Services (Scotland) Act 2010 will have on the SLCC, both in terms of its operational and strategic functions.

# 2 Objectives

- 2.1 In order to encapsulate both the statutory requirements of the 2007 and the 2010 Acts and the more general, wider ranging objectives to improve standards across the legal profession and to work towards reducing the number of complaints and encouraging early resolution, the Oversight Team has set four main objectives:
- (i) To ensure that the SLCC carries out all of its oversight functions in compliance with the provisions of the Legal Profession & Legal Aid (Scotland) Act 2007 (the 2007 Act) and the Legal Services (Scotland) Act 2010 (the 2010 Act).
  - (ii) To raise awareness and promote best practice in complaint handling, complaint avoidance and early resolution amongst consumers, practitioners and other stakeholders.
  - (iii) To monitor the way that conduct and Regulatory complaints are handled by relevant professional organisations/approved regulators and ensure compliance with SLCC guidance and recommendations.
  - (iv) To work towards driving up standards across the legal profession through the monitoring of trends, preparation and publishing of trend reports and sharing information with relevant professional organisations and the Scottish Legal Aid Board.

### 3 Oversight Strategy

3.1 In order to meet the team's objectives, four strategic aims have been identified (although the wording has changed slightly from those aims which were presented to the Board in August, the rationale behind the aims remain the same):

- (i) **Insight;**
- (ii) **Outreach;**
- (iii) **Policy & Standards; and**
- (iv) **Monitoring & Compliance.**

3.2 **Insight** - to monitor trends, analyse statistics and collate information (internally and externally) in order to prepare and publish reports in accordance with the various statutory requirements. To use data to identify themes which may result in training and guidance being provided to practitioners and relevant professional organisations. To identify areas where consumers' expectations are not being managed and to increase awareness about legal practices and complaint handling. To extract and share information within the SLCC and externally to the relevant professional organisations and SLAB.

3.3 **Outreach** – to provide intelligence, guidance and training on best practice, complaint avoidance and good complaint management to consumers, practitioners and relevant professional organisations. To work alongside the professional organisations to encourage better working practices amongst practitioners and identify areas where additional training may be required. To boost consumer confidence in the SLCC and the profession by reaching out to consumer organisations.

3.4 **Policy & Standards** – to ensure that appropriate steps are being taken regarding the proposed legislative changes which have been identified by the SLCC (in discussion with RPOs) as being required in respect of the provisions of the 2007 Act. To fully implement the requirements of the Legal Services (Scotland) Act 2010 into the SLCC's strategic and operational functions. To ensure the SLCC's Rules are fit for purpose.

3.5 **Monitoring & Compliance** – to monitor the handling of conduct/regulatory complaints by RPOs/Approved Regulators. Through its monitoring and auditing functions, to ensure that RPOs have adequate processes, policies and rules in place for dealing with complaints. To carry out trend analysis and reporting and ensure issues of non-compliance and problematic practitioners are reported to RPOs and monitor the action taken. To monitor the effectiveness of the Guarantee Fund, the professional indemnity insurance arrangements and any compensation fund set up by an Approved Regulator.

## 4 Work Plan

- 4.1 The Work Plan table attached at Appendix 1 provides the Board with details of the individual projects and specific pieces of work which the Oversight Team has identified as being necessary over the course of the year from the start of October 2012 to the end of September 2013. Each project will have its own Work Programme, which will detail the tasks, the timescales and the person responsible for delivery of the project (a draft Working Programme is at Appendix 2).
- 4.2 It is anticipated that the Work Plan will be updated as monitoring continues and themes emerge. It is likely that projects will be carried forward into subsequent quarters and projects may be repeated, depending on any findings or recommendations made.
- 4.3 Although Outreach does not feature in the last quarter, this is an area which the Oversight Team will be focussing upon throughout the course of the year. Working closely with the Communications Officer, and in accordance with the Contact Strategy, Outreach will be conducted by the appropriate individual within the SLCC as and when the need arises and updates will be provided/discussed at the monthly Contact Strategy Working Group meeting.
- 4.4 It should be noted that in addition to the specific projects which are set out in the Work Plan, the Oversight Team has the on-going responsibility of collating information which it receives from all sources, both internally and externally and investigating Handling Complaints. The Oversight Team has liaison responsibilities with the RPOs, particularly the LSS in accordance with the requirements of the Liaison Grid. Any issues which fall within the Oversight Team's remit must still be attended to as and when they arise. Often these issues require immediate remedial action or liaison with the RPOs and/or with the appropriate manager within the SLCC.
- 4.5 To date these oversight tasks have been carried out solely by the Oversight Investigator on a full time basis. However, the success of each project relies on the fact that both the Oversight Investigator and the Oversight Auditor will be free to devote sufficient time to each project to ensure that it is properly planned, executed and reported.
- 4.6 The output and success of the Oversight Team in meeting its objectives is subject to certain limitations and risks, which are briefly highlighted in the Work Plan. The main risk to the timeliness and progression of the projects contained in the Work Plan is the limitation as a result of the inadequacies in the current case management system.
- 4.7 The Oversight Team has already identified a huge amount of additional information which requires to be captured on Workpro if the necessary data collation, monitoring, trend analysis and reports are to be extracted. Workpro is not presently equipped to adequately manage and record handling investigations. Workpro needs to provide accurate recording facilities and data extraction

capabilities, otherwise the team will have to continue to carry out manual workarounds, all of which take time and impact on other areas of the SLCC's functions.

- 4.8 It is envisaged that the Board will be provided with an update on the progression of the Work Plan at the end of each quarter.





## ***Oversight Team Work Plan (2012 – 2013)***



### **Oversight Objectives:**

- To ensure that the SLCC carries out all of its oversight functions in compliance with the provisions of the Legal Profession & Legal Aid (Scotland) Act 2007 (the 2007 Act) and the Legal Services (Scotland) Act 2010 (the 2010 Act).
- To raise awareness and promote best practice in complaint handling, complaint avoidance and early resolution amongst consumers, practitioners and other stakeholders.
- To monitor the way that conduct and Regulatory complaints are handled by relevant professional organisations/approved regulators and ensure compliance with SLCC guidance and recommendations.
- To work towards driving up standards across the legal profession through the monitoring of trends, preparation and publishing of trend reports and sharing information with relevant professional organisations and the Scottish Legal Aid Board.

### **Strategic Areas:**

- Outreach
- Insight
- Policy & Standards
- Monitoring & Compliance



**Quarter 1 – (Oct – Dec 2012)**

No	Strategic Area	Project Subject & Aim	Key Tasks/Activities	Output	Risk(s) to project
1.1	Outreach	Engaging with stakeholders; promoting the work of the SLCC; issuing guidance/recommendations for best practice relating to client care/effective communication	Attendance at Legal Services Agency seminar	Presentation	Date/Attendee TBC
1.2	Outreach	Obtain qualitative consumer insights on consumer behaviour, legal services & complaints	Meeting with Consumer Focus Scotland	Ingather information to feed into future guidance/ research/ training	Date/Attendee TBC
1.3	Outreach	Influencing the next generation of solicitors	Professional Responsibility workshops (working with diploma students/new lawyers)	Workshop; presentation	Date/Attendee TBC
1.4	Outreach	Influencing the next generation of advocates	Presentation to Faculty Devils	Presentation	Date/Attendee TBC
1.5	Outreach	Working with CAS (Citizen Advice Scotland) to drive better consumer awareness, understanding & trust	Meeting with Matthew Elton (12.09.12)	Stakeholder training & guidance	Meeting to be re-scheduled
1.6	Outreach	Identifying/producing guidance on good complaint handling procedures (including advice on how to make a complaint – S.34 of the 2007 Act)	Research complaint handling guidance issued by other professional bodies	Leaflets; website; presentation; training manual; workshops	No current risk identified
1.7	Insight	Finalise Information Sharing Protocols with RPOs; collate & extract internal data and report to RPOs	Contact RPOs to agree format and extent of information required; set up recording systems & report templates; internal liaison with teams to ingather information	Information Sharing Protocols; template reports; preparatory work	Legal advice required re: S.43 disclosure; Delays due to Workpro limitations
1.8	Insight	Ascertain how other regulatory bodies use WorkPro & extract data for monitoring & reporting on trends	Meetings with LSO/SPSO/LSB/SRA and other suitable bodies	Make changes to WorkPro; alter systems for trend analysis etc	Time, lack of OT resources

No	Strategic Area	Project Subject & Aim	Key Tasks/Activities	Output	Risk(s) to project
1.9	Insight	Ensure communications are at the appropriate levels between the SLCC, RPOs & other stakeholder organisations, to avoid duplication of issues and discussions	Identify contacts within each relevant organisation; Contact Strategy Working Group; create/update Contact Strategy Grid; discuss contact arrangements with stakeholders	Contact Strategy Grid; Monthly meetings	Contact Grid is not kept updated; Working Group meetings not held
1.10	Insight	To share information with SLAB (as required by S.142 of 2010 Act – implementing S.35AA of Legal Aid (Scotland) Act 1986)	Contact SLAB & RPOs to agree what is “reasonably required” to report; set up recording systems; templates; liaison with teams; data extraction; obtain legal advice on extent of disclosure	Monthly report to SLAB; retrospective reports (dating back to April 2011)	Breach of 1986 Act; Delays due to Workpro limitations
1.11	Insight	To promote the work of Oversight within the SLCC’s Annual Report	Discuss within the team; collate information; pass to Communications Officer	Annual Report information	Unable to meet tight timescales; lack of OT resources
1.12	Policy & Standards	To assist in drafting the Handling Complaint Rules & input into changes required to existing SLCC Rules (to include the requirements under 2010 Act)	Liaison with SLCC’s legal advisors; identify areas which require additional Rules	Handling/ABS Rules; amendments to SLCC’s current Rules	Failure to comply with 2007 Act
1.13	Policy & Standards	To ensure that the SLCC complies with the provisions of the 2010 Act	ABS Working Group; identifying organisational changes/additions; liaising with RPOs to agree system of dealing with new types of complaints	Programme of system & process changes	Breach of 2010 Act; insufficient time to complete before the 2010 Act is fully in force
1.14	Monitoring & Compliance	To create an updated Handling Complaint process (to incorporate changes required by the 2010 Act)	To update process and policy documents; create templates/forms; liaise with RPOs	New templates; policies; processes	Breach of 2007 & 2010 Acts & Rules; existing backlog; increasing handling complaints
1.15	Monitoring &	Keeping RPOs & SLCC staff/Members updated	On-going trend analysis & reports	Trend analysis reports	Delays due to

No	Strategic Area	Project Subject & Aim	Key Tasks/Activities	Output	Risk(s) to project
	Compliance	on issues involving problematic practitioners			Workpro limitations
1.16	Monitoring & Compliance	To monitor issues of non-compliance by practitioners and RPOs & report failures to RPOs	Set up system and process for recording non-compliance; take ownership of non-compliance files	Guidance on non-compliance; exception reports	Delays due to Workpro limitations
1.17	Monitoring & Compliance	To issue the SLCC's Timescales audit & carry out follow-up on the Complaints Process audit	Contact LSS; update Follow-up Log; liaise with LSS (as appropriate); identify further follow up work required	Audit report; updated Follow-up Log	RPOs not providing timely updates for completion of Follow-up Log

**Quarter 2 - (Jan – Mar 2013)**

No	Strategic Area	Project Subject & Aim	Key Tasks/Activities	Output	Risk(s) to project
2.1	Insight	To ensure information is shared with RPOs as per the Information Sharing Protocol	Collate, extract & report to RPOs	Report	No legal advice on disclosure under S.43
2.2	Insight	To ensure consistency in SLCC decision making on eligibility & understanding RPO decisions	TWMFV decision analysis & briefing note on unsatisfactory conduct/misconduct decisions (to be issued to all staff annually)	Reports; Briefing Note	Time, lack of OT resources
2.3	Policy & Standards	To ensure that the SLCC complies with the provisions of the 2010 Act	ABS Working Group; identifying organisational changes/additions; liaising with RPOs to agree system of dealing with new types of complaints	Programme of system & process changes	Breach of 2010 Act; insufficient time to complete before the 2010 Act is fully in force

No	Strategic Area	Project Subject & Aim	Key Tasks/Activities	Output	Risk(s) to project
2.4	Monitoring & Compliance	To ensure that the SLCC has a process in place to deal with situations where practitioners fail to comply with determinations & pay Complaints Levies	Liaise with LSS - Director of Regulation; liaise with internal teams; collate & monitor unpaid awards/Complaints Levies; issue guidance	Process for recovery/writing-off; guidance	Public protection/assurance issues; bad debts
2.5	Monitoring & Compliance	To oversee the Guarantee Fund, indemnity insurance arrangements (S.39) & any "compensation scheme" (as per 2010 Act)	Collate/analyse feedback from GF questionnaires; identify key themes for further work; discuss with LSS proposals for new compensation fund	GF Trend analysis report; arrangements for oversight of new fund	Time, lack of OT resources
2.6	Monitoring & Compliance	To ascertain what action the LSS has taken/intends to take in line with the recommendations contained in the SLCC's Complaints Process/Timescales audit reports	Contact LSS; update Follow-up Log; liaise with LSS (as appropriate); identify further follow up work required	Internal follow up update; themed audit (if necessary)	RPOs fail/delay providing updates for Follow-up Log
2.7	Monitoring & Compliance	To ensure that the Faculty of Advocates' Disciplinary Rules comply with the provisions of the 2007 Act	Liaison & correspondence with Faculty's Solicitor; alter the SLCC's overview of the Faculty's process; (potential) audit of the Faculty's process	Revised Overview; Audit (?)	Delays due to the involvement of the Lord President in the Rule changes
2.8	Monitoring & Compliance	To ensure the effective implementation of the Liaison Grid with the LSS	Analysis of information provided by LSS (monthly/quarterly); liaise with internal teams; liaise with LSS; make changes to Liaison Grid	Revised Liaison Grid; sharing new information within SLCC	Time, lack of OT resources; operational failure

**Quarter 3 - (Apr – Jun 2013)**

No	Strategic Area	Project Subject & Aim	Key Tasks/Activities	Output	Risk(s) to project
3.1	Outreach	Working with the LSS regarding how practitioners deal with complaints with a view to issuing guidance on complaint avoidance, good complaint handling and best practice (e.g. content of terms of engagement letters, fee updates, vulnerable clients)	Trend analysis; collate, extract & analyse instances of poor working practices & inadequate systems; discuss with RPOs; liaise with practitioners (if appropriate); use research report outcomes	Trend reports; guidance; training; improve relations with RPOs & practitioners	Delays due to Workpro limitations; resistance by RPOs to cultural change in working practices
3.2	Outreach	Identifying & raising specific themes with consumer groups to increase consumer awareness	Meetings with consumer groups; trend analysis reports	Reports; presentations; training; guidance	Delays due to Workpro limitations
3.3	Policy & Standards	To ensure that the SLCC complies with the provisions of the 2010 Act	ABS Working Group; identifying organisational changes/additions; liaising with RPOs to agree system of dealing with new types of complaints	Programme of system & process changes	Breach of 2010 Act; insufficient time to complete before the 2010 Act is fully in force
3.5	Monitoring & Compliance	To ensure that the OT has the most efficient systems, tools and processes in place to carry out its functions & meet its objectives.	Review the current systems & processes in place and identify areas for improvement	WorkPro development; revised process, policy & templates; precedents database	Lack of OT resources
3.6	Monitoring & Compliance	To perform an analysis of the Guarantee Fund (GF) questionnaires provided by the LSS	Collate questionnaire responses; identify key themes	Analysis report	LSS fail to deliver questionnaires; insufficient feedback completed by claimants
3.7	Monitoring & Compliance	To work more effectively/efficiently with RPOs to avoid duplication in the investigation of complaints	Liaison with RPOs; analysis of hybrid investigations & handling complaints; review Liaison Grid; consider fast-tracking process	Policy/Rule for hybrids; updated Liaison Grid	Failure to reach agreement with RPOs about process to avoid duplication, contrary to 2007 Act.



No	Strategic Area	Project Subject & Aim	Key Tasks/Activities	Output	Risk(s) to project
3.8	Insight	To be decided			

**Quarter 4 - (Jul – Sep 2013)**

No	Strategic Area	Project Subject & Aim	Key Tasks/Activities	Output	Risk(s) to project
4.1	Policy & Standards	To produce guidance/recommendations about how RPOs deal with conduct complaints, including timescales, systems and methods for investigating complaints - S.36	Trend analysis; liaison with RPOs; audits; identify themes; prepare reports	Trend reports; guidance	Time, lack of OT resources
4.2	Policy & Standards	To ensure that the SLCC complies with the provisions of the 2010 Act	ABS Working Group; identifying organisational changes/additions; liaising with RPOs to agree system of dealing with new types of complaints	Programme of system & process changes	Breach of 2010 Act; insufficient time to complete before the 2010 Act is fully in force
4.3	Monitoring & Compliance	To monitor complaints discontinued by the LSS	Review & reconcile LSS's reports with SLCC records; discuss with LSS; review Liaison Grid	Trend reports; updated Liaison Grid	Time, lack of OT resources
4.4	Monitoring & Compliance	To review and discuss the LSS's Annual Feedback Report to see whether lessons can be learned and system changes implemented following feedback from complainers/practitioners	Review Annual Feedback Report; discuss with LSS; monitor any system changes; ensure process changes are updates in LSS manuals etc	Reports; discussions	Time, lack of OT resources
4.5	Outreach	To be decided			
4.6	Insight	To be decided			

***Oversight Team Project Work Programme***



**Author: Oversight Team**

**Date: xxxx**



Intentionally blank for double-sided printing

## Table of Contents

<b><u>1</u></b>	<b><u>Background and objectives</u></b>	<b>22</b>
<b><u>2</u></b>	<b><u>Timetable</u></b>	<b>22</b>
<b><u>3</u></b>	<b><u>Project Management</u></b>	<b>22</b>
<b><u>4</u></b>	<b><u>Recommendations</u></b>	<b>22</b>
<b><u>5</u></b>	<b><u>Project Work Programme</u></b>	<b>23</b>

Intentionally blank for double-sided printing

## **5 Background and objectives**

5.1 xxxx

## **6 Timetable**

6.1 xxxxx

## **7 Project Management**

7.1 xxxxx

## **8 Recommendations**

8.1 xxxxx

