

**THE SCOTTISH LEGAL AID BOARD
MINUTE OF MEETING OF THE SCOTTISH LEGAL AID BOARD HELD AT 1.30PM
ON MONDAY 11 SEPTEMBER 2006 AT 44 DRUMSHEUGH GARDENS, EDINBURGH**

Present: Iain Robertson, Chairman
Graham Watson
David Nicol
Willie Gallagher
Margaret Scanlan
Paul McBride
Susan McPhee
Elaine Rosie
Ellen Morton
Graham Bell
Kenneth Ross
Joseph Hughes

In attendance: Lindsay Montgomery, Chief Executive
Andrew Menzies, Director of Corporate Services and Accounts
Tom Murray, Director of Legal Services and Applications
Ian Middleton, Director of Audit and Compliance
Hazel Thoms, Project Manager, Policy and Planning
Stuart Foster, Board Administrator

Introduction

The Chairman welcomed Joseph Hughes to his first meeting as a Board member.

1. APOLOGIES FOR ABSENCE

Leslie Campbell and Mahendra Raj.

2. DECLARATIONS OF INTEREST

No interests not previously registered in the Register of Board Members' Interests were declared.

3. DRAFT MINUTE OF MEETING HELD ON 24 JULY 2006

The draft minute of the meeting of 24 July 2006 was approved.

The Chief Executive reported that he had spoken to the Convener of the relevant Law Society committee about delays in dealing with certain cases which had been referred to the Society under Section 31. The Convener had been unaware of the position, and had undertaken to initiate immediate action to address the issue.

4. DRAFT MINUTE OF THE LEGAL SERVICES POLICY COMMITTEE HELD ON 31 JULY 2006

The draft minute of the Legal Services Policy Committee held on 31 July 2006 was noted.

5. QUARTERLY ACTION POINTS

Noted.

6. CHAIRMAN'S INTRODUCTION

The Chairman outlined arrangements for the Board Away-Day on 8 and 9 October.

7. CHIEF EXECUTIVE'S UPDATE

Members considered a report by Lindsay Montgomery updating them on matters of interest since the previous Board meeting.

Updates were provided on: a fraud case; solemn fees for solicitors; meeting with GBA; availability of civil solicitors; civil legal aid block fees; extension of periods for applicants paying contributions in civil legal aid; counsel's fees; meeting on joint development projects with the Scottish Executive; regulation of the legal profession and legal aid Bill – stage 1 debate; fixed payments research; staff pay remit; the Law Awards of Scotland; a decision of the Scottish Freedom of Information Commissioner.

After discussion, members noted the position.

8. PERFORMANCE AND RESOURCES

Members considered a paper updating the position on operational performance and resources for the period from 1 June to 31 July 2006.

It was noted that:

- Criminal, Civil and Advice & Assistance applications and Accounts Assessments had met the headline performance indicators in the year to date period.
- The improvement in Civil Applications performance, following the implementation of the new computer system, had been maintained.
- Total Grant-in-aid expenditure was £3,882k, currently £151k below budget.
- Legal Aid Fund Expenditure for the first four months of 2006/07 was £49.4m, and for the full year was now expected to be around £144m; £4m up on the original £140m forecast.
- Across all PDSO offices, non-duty solicitor work accounted for 75% of all new cases over the last 12 months; compared to 68% in the whole of 2005/06.

After discussion it was AGREED:

- the Director provide a general update on the PDSO to the next meeting;

ACTION: MA

- an update be provided to the Legal Services Policy Committee on solicitors' handling of expenses in civil legal aid cases;

ACTION: TCM

- a report be provided on the implementation of legal aid online and the Board's plans for its full roll out and uptake by the profession.

ACTION: LM

9. LPLA – REGISTERED ADVICE ORGANISATIONS CODE AND GRANT FUNDING

Members considered a paper outlining progress with the Bill and the Board's related activity over the coming period in respect of the provisions relating to case by case civil advice and assistance payments to organisations other than solicitors firms. The paper outlined work planned in anticipation of an amendment to allow the Board to provide grant funding, and also set out a draft Code of Practice for Registered Advice Organisations, which members were asked to approve.

It was noted that the Justice 2 Committee had asked to see the draft Code in order to inform the Committee's consideration of the provisions on case by case funding during Stage 2. The draft had therefore largely been designed for those organisations that would receive case by case funding for the provision of advice and assistance. The extent it was appropriate to grant funding would be dependent on the type of programme the Board was empowered to administer.

Members considered that, overall, the draft Code struck a good balance and adopted a sound general approach, as required in the circumstances. There was some concern that the Executive's proposals for prescribed categories would be too limited and that these should include social welfare and debt.

After discussion, it was AGREED:

- members submit any specific comments they wished to make on the paper or the Code for inclusion, along with points raised in discussion, in the Board's response;
- otherwise, to approve the content of the draft Code of Practice for Registered Advice Organisations for submission to the Justice Committee and consultation.

ACTION: CL

10. PART V UPDATE

Members considered a paper updating the position on the development and progress of the Part V projects in Phase 2 of the pilot programme.

In discussion, it was noted that the new projects had started well. The Board's links to the projects were not widely known, and opportunities should be identified to publicise this. There was also a need to establish the Scottish Executive's future intentions for the pilot projects, and to obtain the kind of funding commitment needed if they were to progress to become "mainstream" activities.

Members noted the progress that had been made with the part V pilot Programme and in achieving amendments to the Act for improving future use of direct employment of solicitors.

After discussion, it was AGREED:

- in general, reports should include comment on progress against budget where appropriate.

ACTION: DIRECTORS

- otherwise, to note the position.

11. POSSIBLE DE-REGISTRATION

Members considered a paper concerning findings of apparent fraud and abuse of the Legal Aid Fund, in the light of which it was recommended that the Board invoke its de-registration procedure in respect of the solicitor and firm concerned.

It was noted that the Director of Audit and Compliance considered that both the initial response received on behalf of the solicitor concerned in relation to the Board's findings and concerns, and the offer of a resolution to the matter which had been received from the solicitor's agents, were unsatisfactory.

In discussion, the view was expressed that although police records of solicitor attendance at police stations were not always reliable, prison attendance records were much more reliable, and that fact, combined with the large number of instances where these records did not tie in with the solicitor's accounts, appeared to provide strong evidence of apparent wrong doing.

After discussion, it was AGREED:

- to invoke the de-registration procedure as recommended, so providing the solicitor and firm concerned the opportunity to submit representations against the proposed de-registration.

ACTION: IGM

DATE OF NEXT MEETING: Monday 6 November 2006.

The meeting ended at 3.25 pm.