

THE SCOTTISH LEGAL AID BOARD

**MINUTE OF MEETING OF THE SCOTTISH LEGAL AID BOARD HELD AT 1.00PM
ON MONDAY 25 JULY 2005 AT 44 DRUMSHEUGH GARDENS, EDINBURGH**

Present: Jean Couper, Chairman
David Nicol
Malcolm Thomson
Kenneth Ross
Ellen Morton
Elaine Rosie

In attendance: Lindsay Montgomery, Chief Executive
Andrew Menzies, Director of Corporate Services and Accounts
Ian Middleton, Director of Audit and Compliance
Tom Murray, Director of Legal Services and Applications
Colin Lancaster, Head of Policy and Planning (items 8 and 10 only)
Douglas Haggarty (item 11 only)
Stuart Foster, Board Administrator

1. APOLOGIES FOR ABSENCE

Apologies were received from Peter Gray, Susan McPhee, Ian Percy, Graeme McKinstry, Willie Gallagher and Margaret Scanlan.

2. DECLARATIONS OF INTEREST

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

David Nicol declared an interest in relation to agenda item 9 and Malcolm Thomson declared an interest in relation to item 11.

3. MINUTE OF MEETING HELD ON 20 JUNE 2005

The minute of the meeting of 20 June 2005 was approved.

4. DRAFT MINUTE OF THE LEGAL SERVICES COMMITTEE HELD ON 27 JUNE 2005

The draft minute of meeting of the Legal Services Committee held on 27 June 2005 was noted.

5. DRAFT MINUTE OF THE LEGAL SERVICES SUB-COMMITTEE HELD ON 27 JUNE 2005

The draft minute of meeting of the Legal Services Sub-Committee held on 27 June 2005 was noted.

6. DRAFT MINUTE OF THE AUDIT COMMITTEE OF 20 JUNE 2005

The draft minute of meeting of the Audit Committee held on 20 June 2005 was noted.

7. CHIEF EXECUTIVE'S UPDATE

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

Members noted the position.

8. STRATEGIC REVIEW CONSULTATION: ADVICE FOR ALL

Members considered a paper by Colin Lancaster which updated the position on the Advice for All consultation, assessed it against views previously expressed by the Board, suggested a general approach to the Board's response, and sought the views of members on any additional issues that should be raised with the Scottish Executive.

It was noted that the Board had already expressed a view on most of the issues covered in the consultation - there was little in the proposals in this consultation that departed significantly from the Report of the Strategic Review of Legal Aid, and the Board's response to the Report had been generally positive.

In discussion, the view was expressed that there was a need to ensure that momentum was maintained in reforming legal aid, particularly given the context that it had taken a long time to get this stage. The longer term creation of a new body to coordinate publicly funded legal assistance should not be lost sight of.

Members made a number of points related to specific proposals and in relation to the suggested general approach to the Board's response, noting that the response should reflect the fact that the Board did not agree with all the points consulted on. The points discussed would be incorporated into a draft to be circulated to members during August. Comments on this draft would then be incorporated into a final draft for consideration at the September meeting.

ACTION: CL

9. CONSULTATION: HANDLING COMPLAINTS AGAINST LEGAL PRACTITIONERS

Members considered a paper by Tom Murray concerning a proposed response to the Scottish Executive consultation "Reforming complaints handling, Building consumer confidence".

It was noted that the Executive proposed to reform arrangements for handling complaints against legal practitioners in Scotland by introducing a greater degree of independence and oversight into the system, and so instilling greater public confidence in the process.

The consultation put forward four possible models as options for handling complaints and asked a series of specific questions.

It was agreed that the proposed response should be limited to legal aid issues arising from the consultation paper, and the Board should not address the specific questions asked. The response should confine itself to a statement of the Board's role, issues with the current system and the requirements of the new system as the Board wants to see it working, and a brief comment on the options being proposed by the Executive. The draft response would be re-worded appropriately and circulated to members prior to submission.

ACTION: TCM

10. OPERATIONAL PLAN 2005-2006

Members considered a paper by Colin Lancaster updating on progress with implementation of the operational plan during the first quarter of 2005-06.

It was noted that good progress had been made against objectives in the first quarter, particularly on high priority objectives, and this despite unanticipated and very resource intensive work with the Faculty of Advocates on counsels' fees. The next quarter would be particularly demanding in terms of development work, leaving little or no capacity for taking on additional objectives.

Members noted the position.

11. COUNSEL'S FEES: UPDATE ON CURRENT ISSUES

Members considered a paper by Douglas Haggarty updating the position on discussions with the Faculty of Advocates on the application of the new Table of Fees for paying counsel in criminal cases, and on developing a Table of Fees for civil cases in the Court of Session and sheriff court.

The paper set out the background to the current position, and outlined areas in which headway was being made, and areas of dispute, in relation to Criminal and Civil fees.

In noting the position, members affirmed their intention to pursue, and not be deflected from, the Board's policy agenda in relation to counsels' fees.

12. UPDATE ON FRAUD AND ABUSE AND DE-REGISTRATION CASES

Members considered a paper by Ian Middleton updating the position in relation to four recent fraud and abuse and de-registration cases.

It was reported that two of these cases were intended to be progressed by referral to the Law Society under Section 31 of the Legal Aid (Scotland) Act. This resulted from the fact that the Board had no power to exclude a solicitor from carrying out civil legal assistance, but the Law Society did. The Board had never before used this as a basis for a complaint to the Law Society, but was doing so now because the Law Society had been required to develop procedures to deal with such complaints by the introduction of civil quality assurance. A further report on these cases would be submitted to the September meeting.

Members noted the position.

ACTION: IGM

13. PERFORMANCE AND RESOURCES REPORT

Members considered a paper updating the position on operational performance and resources for the period ending 31 May 2005.

It was reported that all headline performance indicators had been met for the year to date period; total Grant-in-aid expenditure was slightly over budget; and that Fund expenditure for 2005/06 was expected to be around £157m.

Members noted the position.

14. CHAIRMAN'S REPORT

The Chairman reported that the Head of the Justice Department, Robert Gordon, and Micheline Brannan would visit the Board on Tuesday 27 September between 12 noon and 1pm and encouraged all who could to attend.

The Strategy Away day had had to be postponed to late October/early November

AOB

Meetings with outside bodies

It was noted that the report omitted to mention that David Nicol had attended the latest meeting of the Law Society's Quality Assurance Committee.

15. DATE OF NEXT MEETING

Monday 12 September 2005.

The meeting ended at 4.00pm.