

**THE SCOTTISH LEGAL AID BOARD**

**MINUTE OF MEETING OF THE SCOTTISH LEGAL AID BOARD HELD AT 1.30PM  
ON MONDAY 13 MARCH 2006 AT 44 DRUMSHEUGH GARDENS, EDINBURGH**

Present: Jean Couper, Chairman  
Ian Percy (items 8-15, 17 and 18 only)  
Susan McPhee  
Ellen Morton  
Graeme McKinstry  
Elaine Rosie  
Willie Gallagher  
Margaret Scanlan  
David Nicol  
Malcolm Thomson  
Kenneth Ross

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 9 only)  
Colin Sim, Manager, Communications (item 10 only)  
Joe Kelly, Manager, Treasury (item 15 only)  
Ian Brown, Assistant Manager MIS (item 13 only)  
Marie-Louise Fox, Solicitor-Legal and Policy Support  
Stuart Foster, Board Administrator

**1. APOLOGIES FOR ABSENCE**

Peter Gray.

**2. DECLARATIONS OF INTEREST**

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

**3. MINUTE OF MEETING HELD ON 6 FEBRUARY 2006**

Subject to amending the wording of the first bullet point of item 11 (Civil Advice and Assistance Reform: Roadshows) by replacing the words "was no longer" with *remained*, the minute of the meeting of 6 February 2006 was approved.

**4. MINUTE OF BOARD STRATEGY MEETING HELD ON 6 FEBRUARY 2006**

Subject to amending the wording of the bullet point under Aim 1.3 so that it did not imply that the not-for-profit sector was slow to implement decisions, the minute of the Board Strategy meeting held on 6 February 2006 was approved.

**5. DRAFT MINUTE OF THE LEGAL SERVICES COMMITTEE HELD ON 20  
FEBRUARY 2006**

The draft minute of meeting of the Legal Services Committee held on 20 February 2006 was noted. It was noted that the date of next meeting was 20 March and not 24 April as stated, and that Lindsay Montgomery should be added to the list of those present.

## **6. DRAFT MINUTE OF THE AUDIT COMMITTEE HELD ON 20 FEBRUARY 2006**

The draft minute of meeting of the Audit Committee held on 20 February 2006 was noted.

## **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: regulation of the legal profession and legal aid Bill; the visit of Hugh Henry to the Glasgow PDSO; reform of civil advice and assistance and solemn criminal legal aid; counsels fees; a proposed de-registration of a solicitor; Part V phase 2; legal aid online; legal aid surgeries; and solicitor discussion groups on civil legal assistance.

The Chief Executive highlighted the amount of high level staff and development time to be devoted over the coming months to assist the Scottish Executive with the passage of the Legal Aid Bill and delivery of the range of objectives in the development programme. Through the Chairman's correspondence, Ministers and the Head of the Justice Department were now well aware of the Board's concerns and about the limited provisions in the Bill. The Board was increasingly aware of the concerns of the advice sector that the lack of grant funding provisions and case by case funding was unhelpful. The Board had produced and submitted a draft grants scheme to the Scottish Executive on the basis that such a scheme would inevitably be required.

After discussion, it was AGREED:

- all Board members have sight of the letter the Deputy Justice Minister wrote to the Convener of the Justice 2 Committee;

**ACTION: SF**

- the solicitor the subject of possible de-registration be advised that the Board was very disappointed at his response to the Board's request for representations against a potential decision to remove him from the Register, and that the May Board meeting was the final deadline for compliance proposals to be implemented – otherwise the Board would proceed with his de-registration; all necessary documentation to effect de-registration should be available at the May meeting.

**ACTION: IGM**

## **8. DRAFT OPERATIONAL PLAN 2006-2007**

Members considered a paper providing an overview of the draft operational plan for 2006/07 and inviting comment particularly on the proposed priorities for the year and the identification of any further potential items for inclusion. It was explained that a significant proportion of the elements of the plan were dependent on Scottish Executive decisions and progress.

Members raised a number of points in discussion, including:

- development of proposals on enhanced fees/payment of private rates in A&A should be commenced in the final quarter of this year;

- research into contact/residence cases should include an assessment of how such cases are funded;
- consideration should be given to the priority attaching to HR strategy in the light of the need for change management resources.

It was AGREED:

- the outline proposals for grant funding would be circulated;
- the plan be amended to reflect the points raised in discussion and clarification of Ministers' intention on a number of matters, for submission to the May meeting.

**ACTION: M-LF**

## **9. CORPORATE PLAN 2006-2009**

Members considered a paper which set out a draft Corporate Plan for 2006/9 and invited comment prior to formal submission to the Scottish Executive.

It was noted that the draft plan had been forwarded to the Scottish Executive for comment, and it was understood that, with the possible exception of the overall review and simplification of financial eligibility in civil legal assistance, which the Executive was yet to confirm as a priority in the current year, the Executive was broadly content with the plan.

Members were very supportive of the draft plan in terms of style and content and made a number of suggestions for inclusion in the plan, including and relating to:

- consistency in description of "clients," "customers" etc;
- the adding of a caveat to the projected reduction in the costs of criminal legal assistance to emphasise that this was based on assumptions (which should be stated);
- reconsideration of the plan title "opportunities for access" and the wording in relation to support for traineeships;
- at page 4, to change the title 'Equality of Access' to 'Equalities legislation' and delete the second sentence.

It was AGREED:

- the plan be amended in light of the discussion and any comment by the Scottish Executive and cleared by the Chairman, for submission to the Minister, with a view to publication by the end of April, subject to Ministers' agreement;

**ACTION: CL**

## **10. DEVELOPMENT OF TELEPHONE HELPLINE AND SOLICITOR INFORMATION SERVICES**

Members considered a paper which set out phased development plans for telephone helpline services and associated work, including online information and improving the information held to enable improved referral to solicitors, based on the type of services they offered.

It was noted that the Board would have a public legal aid information helpline in operation by the end of March. The Board members considered this to be a very important development which would provide a highly valuable service to the public.

The Board welcomed the paper and AGREED to approve the phased approach as proposed.

**ACTION: CS**

## **11. PDSO UPDATE REPORT**

Members considered a paper updating on the progress and development of the Public Defence Solicitors Office.

It was noted that the 20 % saving to the fund against budget achieved at the Edinburgh PDSO was a significant one. The trend in attracting cases was upwards. Despite changes in duty share and difficulties with office development, the PDSOs continued to grow and provide high quality criminal legal assistance.

Members expressed satisfaction with the report on the performance of the PDSO, particularly in relation to Glasgow.

It was AGREED:

- further reports be submitted periodically on the development of the PDSO and any issues being encountered with the justice system.

**ACTION: MA**

## **12. EFFICIENT GOVERNMENT**

Members considered a paper updating on the Board's approach and contribution to the Scottish Executive's Efficient Government initiative.

It was noted that a package of efficiency savings had been developed by the Justice Department in conjunction with the Board to reduce expenditure from the Fund through the modernising of legal aid. The Board would continue to identify the scope for further savings and efficiency gains in the administration of legal aid.

Members noted the position.

## **13. GRANT-IN-AID BUDGET AND LEGAL AID FUND FORECAST**

Members considered a paper updating on the current status of the budget process for the forthcoming financial year, and on the outcome of the most recent revision of the forecast of Legal Aid Fund spend for 2006/07 and beyond.

It was noted that the funding provisions of the Scottish Executive budget and the forecast spend for both Administration and the Fund were heavily reliant on the robustness of the assumptions underlying them, and in the case of Administration, sufficiency depended on SEJD agreement to the required carry forward. There was a sensitivity surrounding perceptions about the scale of the increase in solicitors' fees in civil legal aid.

Having compared the funding provisions of the Scottish Executive budget with the forecast spend for both Administration and the Legal Aid Fund, it could be concluded that:

- in terms of Administration (grant-in-aid), the Scottish Executive Budget makes sufficient provision for 2006/07; and that

- in the case of the Legal Aid Fund (notwithstanding changes not yet reflected in the model because of the degree of uncertainty surrounding their magnitude or timing) forecast expenditure in 2006/07 is likely to be around £140m, well within the published Scottish Executive budget.

Members noted the position.

#### **14. FREEDOM OF INFORMATION: CONSULTATION RESPONSE**

Members considered a paper proposing a draft response to the Scottish Executive's consultation on the operation of the Freedom of Information Act.

After discussion, it was AGREED to approve the response as proposed.

**ACTION: AM**

#### **15. RISK REGISTER (ANNUAL)**

Members considered a paper updating on the current status of the Risk Registers and presenting a summary of strategic risks for annual review.

After discussion, it was AGREED:

- the controls in place in relation to Risk No. 13 (Legal Aid Bill) be entered on the Register:
- otherwise, to note the position.

**ACTION: JK**

#### **16. CHANGE TO STANDING ORDERS**

Members considered a paper proposing a change to the standing orders for the Audit Committee with a view to co-opting Ian Percy onto the Audit Committee for a short period after the end of his appointment as a Board member. This was to assist the Committee in dealing with the forthcoming substantial change in the composition of the Board, and the annual accounts and associated matters.

In discussion, support was expressed for the proposed change to the standing orders for the Audit Committee, and for Ian Percy to be co-opted onto the Committee and continue as Convener for a period at the end of his appointment as a Board member. The question of making a similar change to the standing orders to apply to the Legal Services Committee, or across the Board, was raised and considered.

After discussion, it was AGREED:

- the standing orders for the Audit Committee be changed as proposed;

**ACTION: SF**

- Ian Percy be co-opted onto the Audit Committee and continue his involvement with the Committee as Convener for a short period after the end of his appointment as a Board member;

**ACTION: JC**

- further consideration be given to the amendment of standing orders to introduce similar flexibility more widely at the next meeting;

**ACTION: LM**

- in the meantime, the Legal Services Committee consider and make recommendation to the Board on the suitable amendment of standing orders for that Committee.

**ACTION: LM**

## 17. CHAIRMAN'S REPORT

The Chairman reported that:

- members' appraisals and a draft allocation of members to Committees would be issued shortly;
- three new members would join the Board on 1 April, with advertisements for a fourth lay member to be placed in June; members would be advised of the identity of the new Chairman as soon as this was known.
- **it was noted that the item which had appeared on the agenda originally issued for the meeting (Consultation: Judicial Appointments and Removals) would instead be considered at the next meeting of the Legal Services Committee. The papers would be sent to all members and all were invited to attend for this item.**

The Chairman paid tribute to the members leaving the Board at the end of March, and asked for the Board's gratitude to them to be recorded.

Malcolm Thomson had served on the Board for eight years. The Chairman had been particularly grateful for his solid and secure support as Deputy Chairman, and, through his legal expertise, the soundness of the decision-making of the Legal Services Sub-Committee under his convenership.

Ian Percy had been a Board member for six years. His experience and expertise, and capacity to think operationally and strategically, had been of great benefit to the Board, and in particular the Audit Committee under his convenership, surpassing the Chairman's high expectations of him.

Graeme McKinstry had served on the Board for four years, and, regrettably, had had to decline re-appointment in order to attend fully to the demands of his increasingly successful business. His substantial knowledge and expertise in criminal and civil law had been of great value to the Board. The Chairman was particularly grateful for the sterling work he had done on the working party on summary criminal reform.

Peter Gray's commitments as a prominent criminal legal practitioner had prevented him from accepting re-appointment, but the Board had been privileged while he was a member to have the great benefit of his skills and understanding.

The Chairman thanked members past and present, Lindsay Montgomery and the Executive Team, and staff, for the support she had enjoyed over the last eight years. It had been a challenging and rewarding experience, and in that time she had overseen the Scottish Legal Aid Board emerge from a difficult period, and turn into a much more customer-oriented organisation, as well as a better place for staff to work. Through working collectively and constructively with partners, a solid foundation had been built for the future, and the Board's vision for and likely role in the future was one that it could take pride in for it had not been imposed from without, but had instead been constructed from within.

On behalf of members, Ian Percy thanked the Chairman for the pleasure and privilege of working with her, and paid tribute to the excellent job she had done.

**18. DATE OF NEXT MEETING:** Monday 8 May 2006.

The meeting ended at 3.55pm.