

**THE SCOTTISH LEGAL AID BOARD**

**MINUTE OF MEETING OF THE SCOTTISH LEGAL AID BOARD HELD AT 1.30PM  
ON MONDAY 12 MARCH 2007 AT 44 DRUMSHEUGH GARDENS, EDINBURGH**

Present: Iain Robertson, Chairman  
Graham Watson  
David Nicol  
Margaret Scanlan  
Elaine Rosie  
Ellen Morton  
Graham Bell  
Kenneth Ross  
Joseph Hughes  
Denise Loney  
Les Campbell  
Mahendra Raj (by videoconference link)  
Willie Gallagher  
Paul McBride

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  
Colin Lancaster, Head of Policy and Development  
Colin Sim, Communication Manager (item 11 only)  
Hazel Thoms, Policy Manager, Planning and Development (item 10 only)  
Marie-Louise Fox, Solicitor-Legal and Policy Support to the Chief Executive  
Eleanor Campbell, Solicitor and Support to the Director of Legal Services and Applications  
Stuart Foster, Board Administrator

**1. APOLOGIES FOR ABSENCE**

Susan McPhee.

**2. DECLARATIONS OF INTEREST**

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

Elaine Rosie declared an interest in relation to item 14 (Development of Grant Funding).

**3. DRAFT MINUTE OF MEETING HELD ON 5 FEBRUARY 2007**

The draft minute of the meeting of 5 February 2007 was approved.

**4. DRAFT MINUTE OF THE SPECIAL BOARD MEETING HELD ON 19 FEBRUARY**

The draft minute of the special Board meeting held on 19 February was approved.

## **5. DRAFT MINUTE OF THE LEGAL SERVICES POLICY COMMITTEE**

Subject to amendment to item 10 to reflect the fact that it had not been the Legal Services Cases Committee, but the Assessment Officer, that had taken the erroneous decision to grant civil legal aid in the case concerned, the draft minute of the Legal Services Policy Committee held on 19 February was noted.

## **6. QUARTERLY ACTION POINTS**

Subject to the correction that the revised Board Vision Statement had not yet been sent to Ministers, the action points were noted.

## **7. CHAIRMAN'S INTRODUCTION**

The Chairman reported on progress with appraisals and thanked members for their time.

The Chairman had attended a National School of Government and Cabinet Office conference, at which it was apparent that Government thought processes on future direction were aimed at more arms-length delivery of public services through commissioning and assisting bodies, rather than direct governance.

The Chairman asked members to complete a survey questionnaire submitted by the Scottish Leadership Foundation designed to assess the effectiveness of chairmen of boards of public bodies as part of an international research project.

It was Margaret Scanlan's last Board meeting, and the Chairman and Chief Executive thanked her for many years of selfless service, and paid tribute to the very valuable contribution she had made to work of the Board. A dinner was being organised in her honour.

## **8. 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: counsels fees (criminal 1<sup>st</sup> instance); solemn reform; PDSO extension; Lord Gill's review of civil law; review of disclosure; a solicitor fraud case; peer reviewers' fees; criminal quality assurance; summary justice and legal aid reform.

In discussion of Lord Gill's review, the view was expressed that if the Board was made part of the likely reference group, it should be made clear that the profession was receiving mixed messages about the appropriate forum for particular cases.

## **9. OPERATIONAL PLAN 2007-2008**

Members considered a paper that provided an overview of the new draft Operational Plan for 2007-2008. Members were invited to comment on the plan, with particular reference to the proposed priorities for the year and identification of any further potential items for inclusion.

It was noted that the plan built on the very substantial progress made against a number of key strategic objectives in the current year, and set out a challenging programme for the year ahead, with delivery heavily dependent on the Scottish Executive and the Board's sound planning and resource management.

The Chief Executive expressed his belief that the Board had the resources necessary to deliver the programme. However, there was concern, particularly in relation to summary criminal reform, that delivery was dependent on the Scottish Executive, who had not yet finalised the summary justice model. The Chief Executive would convey his concern about this to the Head of the Justice Department.

In discussion, the view was expressed that there should be some indication provided in future reports of the levels of risk attaching to the key projects contained in the plan; and, more generally, that it was important not just to identify risk but to consider the consequences of the risk coming to fruition. It was noted that the annual risk management report would be submitted to the next Board meeting.

After discussion, it was AGREED:

- that future plan updates should give an indication of the risk attaching to the key projects;
- otherwise, to note the position.

**ACTION: M-LF**

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

Members considered a paper updating the position 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 2007/08 and beyond.

Having compared the funding provisions of the Scottish Executive budget with the forecast spend for both administration and the Fund, the Director of Corporate Services and Accounts concluded that:

- in terms of administration (grant-in-aid) the funding was sufficient to meet the Board's needs;
- 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) the forecast outturn was currently around £154m – within the published Scottish Executive budget for the Scottish Legal Aid Fund.

Members noted the position.

## **11. COMMUNICATIONS STRATEGY**

Members considered a paper setting out a revised draft external communications strategy for the next two years, building on the strategy agreed by the Board in May 2004. Members had discussed the outline strategy at their Away Day in October, and their comments had been incorporated into the revised strategy.

In discussion, members made a number of suggestions that should be addressed in the strategy, including:

- benchmarking for the effectiveness of the strategy
- for each of the stakeholder groups, identification of the particular aims for communication with them

- fewer and more succinct key messages
- being clearer about the role of legal aid
- more mention of the use of surveys
- more reference to and prioritisation of the bigger forthcoming challenges and events as they would unfold

It was noted that additional resource was being recruited to enable delivery of the strategy.

After discussion, it was AGREED that, with the assistance of Elaine Rosie, a revised version of the strategy incorporating the points raised in discussion be submitted to the June meeting of the Board.

**ACTION: CS**

## 12. TRENDS ANALYSIS UPDATE

Members considered a paper summarising legal aid trends for April-December 2006-07, comparing figures with previous financial years.

It was noted that there had in fact been a 7% *increase* in income (contributions, expenses and clawback, after refunds).

In discussion, reference was made to the significant increase in grants of children's legal aid and requests for sanction, and the potentially high costs of children's referrals. Concern was expressed about debt matters and the increase in organisations purporting to give debt advice which actually only leads to consolidation of debts and the potential impact on those in need of money advice.

After discussion, it was AGREED:

- the trends in children's legal aid be monitored;

**ACTION: CL**

- that the Chief Executive write to the Scottish Executive to express the Board's concern in relation to the debt issues referred to.

**ACTION: LM**

## 13. EMPLOYMENT OF SOLICITORS TO PROVIDE CIVIL LEGAL ASSISTANCE

Members considered a paper updating the position on implementing previously agreed proposals for the employment of solicitors by the Board to provide a civil legal assistance service in areas of identified need.

The paper set out the key elements of the plan to establish the network, with more detailed proposals to be made to the May Board meeting.

In discussion, a number of suggestions and points were made:

- suggestions for a more suitable acronym than CLAO be passed to Colin Lancaster
- progress with the initiative should be posted on the website
- employing solicitors was only a partial solution to the problem of supply and it was important to recognise that it was not a replacement for the *judicare* model.

- it would be useful to look at how other organisations operated multi-site bodies
- there was a need to find a way of applying quality assurance
- there was need to reach an agreed position with the Scottish Executive in relation to the concept of supplying different services / specialisms at different locations
- consideration needed to be given to how to cope with any excess demand for the service

These would be reflected in the paper to the June Board meeting.

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| <b>ACTION: CL</b> |
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#### **14. DEVELOPMENT OF GRANT FUNDING**

Members considered a paper outlining the proposed approach to the development and implementation of the provisions on grant funding in the Legal Profession and Legal Aid (Sc) Act.

It was noted that the Legal Profession and Legal Aid (Scotland) Act, which had received Royal Assent on 19<sup>th</sup> January 2007, contained provisions that enabled the Board to provide grants for a number of matters and purposes, set out as:

- civil legal aid or advice and assistance provided by solicitors or counsel
- advice and assistance provided by an adviser
- advice, assistance or representation provided by any adviser, including solicitors and counsel, connected to civil matters
- the purposes of facilitating, supporting and developing the provision of the above matters

The Act also allowed for the cost of grant funding to be paid for from the Legal Aid Fund from a fixed amount to be agreed with the Scottish Executive.

In discussion, a number of points were made:

- there were further risks to be considered, such as over-commitment, and it was important to be clear about the scope and timescales of the funding and to move away from short-term funding.
- there needed to be a measurement of success, and further consideration of governance issues

These would be taken into account in the development of proposals as to the level of funds thought to be needed for the Board's grant funding programme, details of which would be reported on in due course.

**DATE OF NEXT MEETING:** Monday 14 May 2007

The meeting ended at 4.15 pm.