

**THE SCOTTISH LEGAL AID BOARD
MINUTE OF MEETING OF THE SCOTTISH LEGAL AID BOARD HELD AT 1.30PM
ON MONDAY 14 MAY 2007 AT 44 DRUMSHEUGH GARDENS, EDINBURGH**

Present: Iain Robertson, Chairman
Graham Watson
David Nicol
Elaine Rosie items (1-14 only)
Ellen Morton (items 1-11 only)
Graham Bell
Kenneth Ross
Joseph Hughes
Denise Loney
Les Campbell
Mahendra Raj (items 1-14 only)
Willie Gallagher (items 1-12 only)
Susan McPhee

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
Hazel Thoms, Project Manager, Policy and Development (items 12-14 only)
Joe Kelly, Head of Civil Legal Assistance (items 15-16 only)
Marie-Louise Fox, Solicitor – Legal and Policy Support to the Chief Executive
Stuart Foster, Board Administrator

1. APOLOGIES FOR ABSENCE

Paul McBride.

2. DECLARATIONS OF INTEREST

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

Graeme Watson and Susan McPhee declared interests in relation to item 12 (Part V update).

3. DRAFT MINUTE OF MEETING HELD ON 12 MARCH 2007

The draft minute of the meeting of 12 March 2007 was approved.

4. DRAFT MINUTE OF THE LEGAL SERVICES POLICY COMMITTEE

The draft minute of the Legal Services Policy Committee held on 19 March was noted.

5. DRAFT MINUTE OF THE LEGAL SERVICES CASES COMMITTEE

The draft minute of the Legal Services Cases Committee held on 19 February was noted.

6. DRAFT MINUTE OF THE LEGAL SERVICES CASES COMMITTEE

The draft minute of the Legal Services Cases Committee held on 19 March was noted.

7. DRAFT MINUTE OF THE AUDIT COMMITTEE

The draft minute of the Audit Committee held on 12 March was noted.

8. CHAIRMAN'S INTRODUCTION

The Chairman reported that Robert Gordon had unfortunately been unable to attend the meeting. However, at his meeting with him 4 weeks ago, the Head of Justice Department had expressed satisfaction with the work of the Board.

9. 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: solemn fees reform; The Board's Gender Equality Scheme; pay remit 2007/08; Lord Gill's civil courts review; hearing before the JCPC about interest on counsel's fees; review of summary criminal legal assistance; civil A&A reform; a solicitor fraud case; Parliament report on the implementation of various legal aid reforms in England and Wales arising from the Carter review; new PDSO's; Best Value/Efficient Government; programme and project management; super complaint on Scottish legal services.

The Chief Executive reported that staff continued to engage with the Scottish Executive about the planned timescale for the reform of summary justice and summary criminal legal assistance. He confirmed that the Board's pay remit would be submitted to the Scottish Executive by the deadline.

Members noted the position.

10. OPERATIONAL PLAN 2006-2007

Members considered a paper that provided an update on overall progress made with the Operational Plan during 2006-07.

It was noted that a great deal had been achieved during the year against a wide range of challenging objectives and, in some cases, substantial delays on the part of other organisations. The Board had delivered large projects such as the monitoring of civil legal aid reform and criminal fees for counsel. Substantial progress had been made on on-going projects such as legal aid online, solicitors' solemn legal aid fees, the development of the summary criminal legal aid system and the simplification of civil legal assistance. These projects would be taken forward in the Operational Plan 2007/08, which members had already considered and approved.

After discussion, it was AGREED:

- feedback be provided in due course on the benefits achieved by the introduction of the enhanced telephone system.

ACTION: AM

11. PERFORMANCE AND RESOURCES REPORT

Members considered a paper updating them on operational performance and resources for the period from 1 January to 31 March 2007, and for the year.

It was noted that:

- Criminal, Civil and Advice & Assistance applications and Accounts Assessments had met the headline performance indicators during the period and for the year as a whole.
- Total Grant-in-aid expenditure for 2006/07 was £12.9m compared to a budget of £13.1m.
- Legal Aid Fund cash spend was £149m, in line with SEJD expectations.
- Across all PDSO offices, non-duty solicitor work, where the business was generated through client choice, accounted for 78% of all new cases in the year to date compared to 69% in the same period last year.

After discussion, it was AGREED:

- the impressive achievement of meeting or exceeding the tougher targets set for the year across the Board be recorded;
- to review how more useful information on expenses cases could be provided in future reports;

ACTION: AM

- in the next PDSO update, the Director should discuss comparisons with the private sector in the context of the PDSO end of year results and the strategic plan for the service, together with a view on the lessons being learned in the Glasgow office; also, the PDSO Business Manager should report on progress with developing the service into a homogeneous entity.

ACTION: MA

12. PART V PILOT PROJECTS

Members considered a paper updating them on the development and progress of the Part V projects in Phase 2 of the pilot programme, and outlining what had been achieved to date by the individual projects and the work undertaken on the programme as a whole.

It was noted that all Phase 2 projects were now up and running, with solicitors in post. There were five Part V projects in Phase 2 of the Part V programme, and all were funded to continue until 31 March 2008 (apart from the Citizens Advice Scotland project, which would end on 31 January 2008). Two of the projects, the Citizens Advice Scotland project and the Streetlegal project, were Phase 1 projects that started in 2002 and had been given continued funding after successful evaluations. The total funding for Phase 2 was £270,000 per year.

After discussion, it was AGREED:

- the Board's contribution to the projects should be publicised through branding;
- a more suitable acronym than CLAO be recommended to the June Board meeting;
- there remained a need to address the issue of the Board being seen to supply different services / specialisms at different locations;

- the project solicitors focus on the social policy aspects of the projects in their next reports.

ACTION: CL

13. LEGAL PROFESSION AND LEGAL AID (SCOTLAND) ACT – IMPLEMENTATION TIMETABLE

Members considered a paper setting out progress towards commencement of the various provisions contained in the Legal Profession and Legal aid (Scotland) Act, 2007 affecting legal aid.

After discussion, it was AGREED:

- developments be kept under review by the Legal Services Policy Committee, with a report to the Board towards the end of the process.

ACTION: TCM

14. DEVELOPMENT OF GRANT FUNDING

Members considered a paper outlining the proposed range of the Board’s first grant funding programme, and the consequential scale of funds that it was believed would be necessary for its implementation, so building on earlier papers to the Board regarding the provisions on grant funding in the Legal Profession and Legal Aid (Sc) Act.

It was noted that legislation 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. There was as yet no indication as to the scale of funding to be made available, and the Board wished to propose a “preferred option” to the Executive that could help it advise Ministers on the range of funds that would be necessary to achieve significant improvements in access to advice by way of grant funded work. The paper set out the principles, objectives, structure and resource estimate for the proposal to be submitted to the Scottish Executive.

Members made a number of points to be taken into account in the submission:

- provision of funding for “front-line” advice
- recognition that this was an iterative process
- failure to introduce grant funding at a credible level of investment would reduce access to justice and increase the legal aid bill
- the observed and anecdotal weaknesses in the current system should be highlighted
- the intention to risk assess each project should be illustrated

After discussion, it was AGREED:

- subject to reflecting the points raised in discussion, to approve the principles, objectives, structure and resource estimate for the proposal for submission to the Scottish Executive.

ACTION: CL

15. RISK MANAGEMENT UPDATE AND ANNUAL REVIEW

Members considered a paper advising on the current status of the Risk Registers and summarising strategic risks for annual review.

After discussion it was AGREED:

- to review the visual presentation of the report to indicate any changes to risk levels;
- otherwise, to note the position;

ACTION: JK

- where appropriate, Board papers should highlight any strategic risk issues.

ACTION: DIRECTORS

16. PROPOSED SEQUESTRATION

Members considered a paper setting out the background to a debt recovery case in which it was recommended that sequestration proceedings were commenced.

After discussion, it was AGREED to approve the recommendation.

ACTION: JK

ANY OTHER BUSINESS

The Chairman reported that, in April, along with the Chief Executive and the Director of Legal Services and Applications, he had met with the Lord President of the Court of Session to discuss issues pertaining to the operation of the courts, criminal and civil cases and information for Senators on legal aid. There were a number of useful outcomes from the meeting, and it had been particularly pleasing to hear the Lord President's unprompted comments at the beginning of the meeting that, following a circulation in advance of the meeting, there were no emerging legal aid issues, and, indeed, he had received a comment from Lord Hardie to the effect that the system was working well.

DATE OF NEXT MEETING: Monday 18 June 2007

The meeting ended at 3.55pm.