

**THE SCOTTISH LEGAL AID BOARD  
MINUTE OF MEETING OF THE SCOTTISH LEGAL AID BOARD HELD AT 1.30PM  
ON MONDAY 5 NOVEMBER 2007 AT 44 DRUMSHEUGH GARDENS, EDINBURGH**

Present: Iain Robertson, Chairman  
Graham Watson  
David Nicol  
Graham Bell  
Joseph Hughes  
Denise Loney  
Willie Gallagher  
Les Campbell  
Susan McPhee  
Kenneth Ross  
Elaine Rosie  
Ellen Morton

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, Director of Policy and Development  
Audrey McColl, Financial Controller (items 11-12 only)  
Brian Sinclair, Cost and Performance Analyst (items 11-12 only)  
Hazel Thoms, Project Manager, Policy and Development (item 15 only)  
Matthew Auchincloss, Director, PDSO (item 17 only)  
Sarah Rova, 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.

Graham Watson, Ellen Morton, Susan McPhee and Elaine Rosie declared interests in relation to item 15 ( Part V programme).

**3. DRAFT MINUTE OF MEETING HELD ON 10 SEPTEMBER 2007**

The draft minute of the meeting of 10 September 2007 was approved.

**4. DRAFT MINUTE OF THE AUDIT COMMITTEE HELD ON 10 SEPTEMBER 2007**

Subject to removing David Nicol from the list of attendees, the draft minute of the Audit Committee held on 10 September was noted.

**5. MINUTE OF THE LEGAL SERVICES POLICY COMMITTEE HELD ON 27  
AUGUST 2007**

The minute of the Legal Services Policy Committee held on 27 August 2007 was noted.

#### **6. MINUTE OF THE LEGAL SERVICES POLICY COMMITTEE HELD ON 25 SEPTEMBER 2007**

The minute of the Legal Services Policy Committee held on 25 September 2007 was noted.

#### **7. MINUTE OF THE LEGAL SERVICES CASES COMMITTEE HELD ON 27 AUGUST 2007**

Subject to amending the date of the next meeting, the minute of the Legal Services Cases Committee held on 27 August was noted.

#### **8. DRAFT MINUTE OF MEETING OF THE LEGAL SERVICES CASES COMMITTEE HELD ON 25 SEPTEMBER 2007**

The draft minute of the Legal Services Cases Committee held on 25 September (now an approved minute) was noted.

### **9. CHAIRMAN'S INTRODUCTION**

The Chairman reported on the Legal Aid Joint Conference 2007. The conference had been fairly well attended and there had been a useful and constructive exchange of views, with the Cabinet Secretary taking questions and exhibiting a pragmatic approach to issues that appeared to be well received.

The Board meeting on 10 December would comprise a half-day strategy session, with this to be followed by a full-day session early next year.

It was not essential to fill the two Board vacancies that would occur at the end of April 2008 from the point of view of having 15 members, although lay member representation and committee quora were considerations.

### **10. 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: pay award 2007/08; civil legal aid research – press coverage; solicitor fraud case – press coverage; the Annual Report; legal assistance Handbooks; civil fees review; solemn reform; Lord Gill's review of civil courts; Legal Aid conference / Minister's speech; a solicitor fraud case – recoveries; Law Society Vice-President.

It was noted that the Minister had announced a further 7% increase in solemn fees on the basis of the implementation of quality assurance. There would be no change to the existing PDSO network. All the money due from the Muir fraud case had now been recovered. The Spending Review would be published on 14 November.

Members noted the position.

### **11. MID-YEAR REVIEW OF LEGAL AID FUND FORECAST AND GRANT-IN-AID BUDGET**

Members considered a paper which provided an update on the revised forecast of Legal Aid Fund expenditure for 2007/08, and the likely outturn against the 2007/08 Grant-in-Aid budget.

It was noted that, having undertaken the latest review of the forecasting model's assumptions, Legal Aid Fund expenditure for 2007/08 was forecast to reach around £155.6m – approximately £5.5m up on last year, and £1.5m (0.9%) down on the original forecast. The Board continued to seek co-operation from other justice agencies at each revision of the key underlying assumptions in order to further improve the reliability of the forecast.

Grant-in-Aid expenditure would be in line with budget at the end of the financial year at £13m.

Members noted the position.

## **12. PERFORMANCE AND RESOURCES REPORT**

Members considered a paper updating the position on operational performance and resources for the period from 1 August to 30 September 2007.

It was reported that:

- Criminal and Civil Applications and Accounts Assessment had all met the headline performance indicators during the period and for the year as a whole.
- The year to date performance for Advice & Assistance Applications was still slightly below the target headline performance indicator for the year to date as a result of the combined impacts on performance in May and June of the implementation of Civil A&A reform, the introduction of new forms and the implementation of a new A&A computer system. As anticipated, performance had improved and the headline target was exceeded in both August and September.
- For the first time, the performance of Children's applications was disclosed separately. The results showed excellent timeliness performance in September after a drop in August and it was anticipated that the headline target would be met for the full year.
- Total Grant-in-Aid expenditure YTD for 2007/08 was £6.1m compared to a budget of £6.2m.
- Legal Aid Fund cash spend was £76.1m compared to an expected £76.4m.
- Following a drop in performance in invoice payment turnaround in June, there had been a continued improvement in the YTD position and it was hoped this target would be met for the year.

Members noted the position.

## **13. OPERATIONAL PLAN UPDATE**

Members considered a paper which updated on progress in the second quarter against the Operational Plan 2007/08.

It had been reported at the end of the first quarter that some of the initiatives of the previous government had not been carried on by the new government, and that timescales had changed for some key projects, namely: introduction of a network of civil employed solicitors, grant funding, and other advice planning and co-ordination work. It was also likely that the Spending Review would have considerable implications for legal aid which might well impact on Ministers' priorities.

It was noted that progress in the first and second quarter on some of the Board's high priority projects had been difficult due to the Scottish Parliamentary Election and the settling-in of the new Administration. Nevertheless, good progress had been made on a substantial number of high priority projects.

Members welcomed the improved format of the report, and noted the position.

#### **14. SUMMARY CRIMINAL LEGAL ASSISTANCE REFORM**

Members considered a paper which provided an indication of the themes emerging from the current consultation process.

It was clear that many of the solicitors attending the roadshows had not read the system model paper or were aware of the summary justice Act, and this made their understanding of the legal aid proposals more problematic. There had been considerable criticism of the Crown at several of the roadshows with solicitors expressing concern about current performance and whether the Crown would be able to deliver the reforms. Solicitors expressed concern about the proposed fee rates, particularly for the duty scheme. There were also some questions about eligibility issues.

The Chief Executive expressed his thanks and appreciation for Tom Murray's first-rate handling of the roadshows in what were sometimes difficult circumstances, and the heavy time commitment involved.

It was confirmed that the Scottish Government had agreed to publish its key assumptions on the likely volumes of cases which would go through the reformed summary justice system, following a request by the President of the Glasgow Bar Association. The Board would then be able to publish its costings of the reforms, which were based on the Scottish Government's assumptions.

The Board noted the position.

#### **15. PART V PROGRAMME**

Members considered a paper which set out the findings from the evaluation of Phase 2 of the Part V Pilot Project Programme, and suggested recommendations for development of future Part V work.

It was noted that a strategy for the future use of Part V employed solicitors had been recommended to and agreed by the Board in July 2007. The strategy set the context for decisions on the structure and objectives of Part V work for the period after the funding agreements for the current range of five projects come to an end in March 2008.

The Scottish Government had now confirmed that funds for Part V work would be available on an ongoing basis at the same level as at present (£270,000), with some additional funding to cover increased salary costs. The level of funding enabled the Board to fund five solicitor posts, plus running costs associated with service delivery.

In addition to this resource, and following Ministerial agreement, the Board was currently setting up a civil legal assistance Part V service in Inverness, which would incorporate the second tier work previously delivered by the Inverness-based Citizens Advice Scotland Part V project. The cost of one Inverness-based solicitor's salary would, therefore, continue to be drawn from the £270,000 made available for Part V projects.

The Board was asked to note the outcomes of the evaluation of Phase 2 of the Part V programme, and to consider the proposals for retaining the range of services provided by the Argyll and Bute project and for taking forward work related to the thematic priorities identified in the report, using the resources currently directed towards the Fife, Lanarkshire and Edinburgh projects.

After discussion, it was AGREED:

- to approve the general approach and range of priority thematic issues, whilst noting that detailed objectives and working arrangements for individual projects would be developed for the Board's consideration before the current projects ended in April 2008;
- in the meantime, that there should be further consideration and focus on the development of Part V at the strategy session in December.

**ACTION: HT**

## **16. TRENDS ANALYSIS**

Members considered a paper summarising legal aid trends for April to August 2007-08, and comparing figures with previous financial years.

After discussion, members noted the position.

## **17. PDSO UPDATE**

Members considered a paper on the performance and operation of the Public Defence Solicitors' Office, both currently and in terms of its set objectives, together with an analysis of the cost effectiveness of the PDSO in providing criminal legal assistance.

The Board noted that the new offices were on track to meet business plan projections. In some locations private sector firms showed considerable antipathy towards the PDSO, whilst in other areas relationships with the local profession were reasonable.

It was reported that the Cabinet Secretary for Justice had made it clear at the legal aid conference that whilst he did not see further roll-out of the PDSO for the foreseeable future he did not envisage any reduction in the current network.

The Board recognised the improved figures for Glasgow but would like to see them improve further. However, this was difficult in a saturated market. The Edinburgh office also showed some improvement in recent months following the loss of staff over the past year.

The Board agreed that more should be done to optimise the cost effectiveness of the PDSO network recognising that there was not a level playing field between private practitioners and the PDSO and in order to achieve best value for the taxpayer. Past experience clearly showed that increased workload could be achieved by the PDSO having a larger share of the duty plan slots as had previously been the case for the Edinburgh office. The Board also noted that the Edinburgh and Glasgow offices did not operate on a number of duty plans unlike Inverness and the new offices. There was also discussion of the merits of setting up a small satellite office in Glasgow.

The Board agreed:

- not to open a satellite office in Glasgow
- to increase usage of the duty scheme
- to recruit staff in order to return to full complement
- to pilot the recruitment of a polish-speaking Paralegal
- to look at further means of optimising cost-effectiveness

**ACTION: MA**

**DATE OF NEXT MEETING:** Monday 10 December 2007 (lunch at 12.30 – venue to be advised).

The meeting ended at 4.00pm.