

**THE SCOTTISH LEGAL AID BOARD**  
**MINUTE OF MEETING OF THE SCOTTISH LEGAL AID BOARD HELD AT 1.30PM**  
**ON MONDAY 27 OCTOBER 2008 AT 44 DRUMSHEUGH GARDENS, EDINBURGH**

Present: Iain Robertson, Chairman  
Paul McBride  
David Nicol  
Graham Bell  
Kenneth Ross  
Denise Loney  
Les Campbell  
Joseph Hughes  
Elaine Rosie  
Graham Watson  
Ellen Morton

In attendance: Lindsay Montgomery, Chief Executive  
Andrew Menzies, Director of Corporate Services and Accounts  
Colin Lancaster, Head of Policy and Development  
John Osborne, Policy Development Officer (item 12 only)  
Gemma Craik, Policy Assistant, Policy and Development (item 8 only)  
Simon Earle, Economic Analyst (item 13 only)  
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.

**3. DRAFT MINUTE OF MEETING HELD ON 1 SEPTEMBER 2008**

The draft minute of the meeting of 1 September 2008 was approved.

**4. DRAFT MINUTE OF THE LEGAL SERVICES POLICY COMMITTEE HELD ON 29 SEPTEMBER 2008**

The draft minute of the Legal Services Policy Committee held on 29 September 2008 was noted.

**5. DRAFT MINUTE OF THE LEGAL SERVICES CASES COMMITTEE HELD ON 29 SEPTEMBER 2008**

The draft minute of the Legal Services Cases Committee held on 29 September 2008 was noted.

**6. CHAIRMAN'S INTRODUCTION**

The Chairman reported that in view of cost considerations the Board would be represented only by the Chief Executive at the International Legal Aid Group conference in New Zealand in April 2009.

## 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: summary justice reform; Investors in People; Criminal Quality Assurance Committee - recruitment of non-lawyer members; university law fairs; CPD for new lawyers; Part V; grant funding; Joint Legal Aid Conference; regulation of the legal profession; Legal Aid Joint Consultative Committee – Isle of Man; de-registration; legal aid online.

The Chief Executive also reported that he would shortly be meeting with the Chief Executive of the Mental Health Tribunal for Scotland regarding the payment of curators. Feedback from the National Criminal Justice Board indicated that the changes to legal aid brought about as part of the summary justice reforms were having the intended and anticipated impact on the system. In recognition of government initiatives in England and Wales to ensure the prompt payment of invoices by public bodies, the Director of Corporate Services and Accounts was examining the Board's payment systems to ensure there were no unnecessary impediments to the speedy settlement of the profession's accounts.

Colin Lancaster outlined the process and timescales for the production of the Annual Report.

Members noted the position.

## 8. OPERATIONAL PLAN UPDATE

Members considered a paper updating on progress in the second quarter against the Operational Plan 2008/09 and outlining activity planned for quarters three and four.

It was noted that work associated with the summary reforms would be greater than anticipated in the second half of the year and would need more resource, as would external communications and Finance. Priorities would have to be revisited if the Scottish Government decided to implement the Board's proposals on tapered eligibility in civil cases and to introduce improved arrangements to help people access advice and representation in debt and social welfare law.

After discussion, it was AGREED:

- implementation of IFRS should be included in the plan;

**ACTION: GC**

- work should be taken forward on the procurement of experts and third party services;

**ACTION: AM/TCM**

- Lindsay Montgomery write to the Law Society to inform them about the review of Civil Quality Assurance.

**ACTION: LM**

## 9. PERFORMANCE AND RESOURCES REPORT

Members considered a paper updating on operational performance and resources for the period from 1 July to 31 August 2008.

It was noted that:

- Children's, A&A and Civil Applications and Accounts Assessment have all met the headline performance indicators for the year to date.
- The year to date performance for Criminal Applications was slightly below the target headline performance indicator as a result of the implementation of summary criminal legal aid reform and major changes to the Board's computer systems. However, performance was very good given the scale of the changes made.
- Total Grant-in-Aid expenditure YTD for 2007/08 was £5.4m compared to a budget of £5.6m.
- Legal Aid Fund cash spend was £60.9m compared to an expected £61.5m.
- Invoice payments - Performance against this target was first impacted negatively in June 2007 due to a combination of extreme staffing issues within the department. The Business Efficiency and Review Unit had agreed to carry out a review of the invoice approval process to identify any other factors which may be impacting performance other than resources.

After discussion, it was AGREED:

- the performance indicators and targets for the collection of contributions for civil legal aid be revisited;

**ACTION: AM**

- a paper reviewing Board policy on the timescales allowed for continuations be submitted to the Legal Services Policy Committee in two months time.

**ACTION: TCM**

## 10. MID-YEAR REVIEW OF FUND EXPENDITURE AND GRANT-IN-AID

Members considered a paper updating on the revised forecast of Legal Aid Fund expenditure for 2008/09 and beyond, and the likely outturn against the 2008/09 Administrative budget.

It was noted that: having undertaken the latest review of the forecasting model's assumptions, Legal Aid Fund expenditure for 2008/09 was forecast to fall to around £149.8m - approximately £0.4m less than last year, and £3.7m (1.9%) down on the original forecast. As the legal aid fund was demand led, the Board continued to seek co-operation from other justice agencies at each revision of the key underlying assumptions 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 £13.2m.

Members noted the position.

## 11. EFFICIENT GOVERNMENT

Members considered a paper outlining efficiency plans for the Administration budget and the Legal aid Fund.

It was noted that target savings to the Fund of £12m in the first year had been achieved. Continued savings – in particular, the main contributors to the efficiency package for 2008/09 to 2010/11 - would depend on the pace of regulatory change, and therefore, the Scottish Government. Potential savings within the Administration budget had been identified for 2008/09 to meet the 2% savings target.

Members noted the position

## **12. PATTERNS OF SUPPLY OF CIVIL LEGAL ASSISTANCE**

Members considered a paper and heard a presentation reporting back with the results of analysis of patterns of supply of civil legal assistance in the four areas previously selected for more in depth work, and recommending future actions.

After discussion, it was AGREED:

- the apparent inconsistency between Orkney and Shetland in relation to A&A intimations and applications for civil legal aid should be examined;
- to approve the recommendations to inform the Scottish Government; engage with stakeholders in Aberdeen, Aberdeenshire, West Lothian and Glasgow; investigate specific areas of the law; monitor the situation in Highlands and Islands and Dumfries and Galloway; publish the current data and put plans in place for future reporting.

**ACTION: CL/JO**

## **13. CRIMINAL MODELLING**

Members considered a paper setting out progress on a project which aimed to model the profitability of criminal legal assistance. The project had been initiated in response to concerns expressed by firms providing criminal legal aid about the continued profitability of criminal legal aid.

The model had been developed around the pre summary criminal legal assistance reforms and work was currently being carried out to model the likely impact of those reforms. The structure of the model had been reviewed by a firm of independent accountants to help ensure its robustness. The model once proved should provide an ongoing means of monitoring the profitability of criminal legal assistance work which should be available to Ministers and the profession.

After discussion, it was AGREED:

- that there should be further engagement with a number of practitioners to obtain their views on the range of business costs included in the model and to seek further input from auditors and accountants.

**ACTION: CL**

**DATE OF NEXT MEETING:** Monday 8 December 2008

The meeting ended at 4.20pm.