

**THE SCOTTISH LEGAL AID BOARD**

**DRAFT**

**MINUTE OF MEETING OF THE SCOTTISH LEGAL AID BOARD HELD AT  
1.30PM ON MONDAY 11 FEBRUARY 2008 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  
Derek Arthur, Project Manager (item 11 only)  
Catriona Whyte, Head of Legal Services (Merits) (Item 11 only)  
Julie Garvey, Executive Assistant  
Clare Duffy, Policy & Development Assistant Manager (Item 17 only)  
Raphael Bleakley, Policy & Development/Equalities Officer (Item 17 only)

**1. APOLOGIES FOR ABSENCE**

Paul McBride.

**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 5 NOVEMBER 2007**

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

**4. DRAFT NOTE OF THE STRATEGY SESSION HELD ON 10 DECEMBER 2007**

The draft note of the Strategy Session held on 10 December was approved.

**5. DRAFT MINUTE OF THE AUDIT COMMITTEE HELD ON 10 DECEMBER 2007**

The draft minute of the Audit Committee held on 10 December was noted.

## **6. DRAFT MINUTE OF THE LEGAL SERVICES POLICY COMMITTEE HELD ON 17 DECEMBER 2007**

The minute of the Legal Services Policy Committee held on 17 December 2007 was noted.

The word “decrease” should replace the word “decease” in the first bullet of item 12.

|            |
|------------|
| ACTION: SF |
|------------|

Work was continuing on the outcomes research. The outcomes work would ensure that relevant information was captured across all cases not just in samples. This would identify any gaps and throw up questions that should be asked as cases progress.

## **7. DRAFT MINUTE OF THE LEGAL SERVICES CASES COMMITTEE HELD ON 17 DECEMBER 2007**

The minute of the Legal Services Policy Committee held on 17 December 2007 was noted.

## **8. CHAIRMAN’S INTRODUCTION**

The Chairman reported that he had heard nothing further from the Scottish Government regarding the re-appointment of Board Members for March 2008. It was therefore assumed meantime that re-appointments would take place for those Members concerned and that any vacancies would be carried forward into next year.

On 30 January 2008 the First Minister announced the outcome of the Government’s work on *Delivering More Effective Government*. A number of public bodies were to be restructured and merged. The Board was not one of them. However, the focus would remain on pushing forward the Shared Services agenda. Members could obtain copies of the First Minister’s Statement and Supporting paper from the Chief Executive’s Office.

## **9. CHIEF EXECUTIVE’S UPDATE**

Members considered a paper by Lindsay Montgomery updating them on matters of interest since the previous Board meeting.

Updates were provided on Reform of Summary Criminal Legal Assistance, Solemn Fees for Solicitors, Civil Fees Review, Pay, Highlands & Islands Part V Service, Legal Aid Expenditure Monitoring Group, Mortgage Rights, Scottish Government Policy on Relocation of Public Bodies and the announcement of the resignation of Douglas Mill as Chief Executive of the Law Society of Scotland.

Summary Criminal Legal Assistance was the main focus. Meetings had been held with the Cabinet Secretary, representatives from local Bar Associations, Law Society of Scotland and the Board. 73 responses to the Consultation had been received, following a request for an extension to of the consultation period.

The most significant issue in the reforms was to have a single disposal figure – an incentive to dispose of a case at as early a stage as possible. Informal feedback on this has been positive.

A further meeting was being held the following day with representatives from the profession, Scottish Government and the Board. It was hoped that the current round of discussions would conclude by the end of February. A paper on the latest proposals would be discussed at the Legal Services Policy Committee on 18 February and circulated to other Board Members for information.

The Chairman expressed appreciation for the sterling efforts staff had made to inform the profession about the reforms.

There had been recent press coverage of a story on mortgage rights cases involving legal aid. The number of legal assistance cases involving this piece of legislation had increased substantially since 2002.

Lindsay Montgomery would be meeting with Mike Dailly of Govan Law Centre whose incorrect assertions on a change of Board policy had led to the criticisms to discuss the issues which had arisen and correct his view.

There would be a formal launch of the new office in Inverness around April/May. It was hoped the Cabinet Secretary would officiate.

Board members were reminded that a Board Away Day would be held on Monday 6 October 2008.

## **10. VISION STATEMENT**

Members considered a paper by Lindsay Montgomery with a revised version of the Board's Vision Statement following discussion at the Board's strategy day in December 2007.

A number of minor amendments/revisions to the Vision Statement were proposed and noted. The Vision Statement would be finalised and circulated to Members for information.

## **11. REVISED PERFORMANCE STANDARDS AND TARGETS FOR 2007/09**

Members considered a paper proposing revised performance standards and targets for 2008/2009 which will be signed off by the Scottish Government as part of the Board's 2008/2009 Corporate Plan.

It was not proposed to make significant changes to targets in criminal cases at this time because of the major reforms to be introduced in June 2008. Revised targets would be developed once the new legal assistance system was clearer.

Document management would be introduced into Accounts Assessment which will allow revised targets to be developed in 2008/09.

The roll-out of legal aid online would provide the opportunity to increase turnaround times even more.

The Board noted the report and agreed the approach proposed for setting targets for 2008/09.

## **12. CIVIL SIMPLIFICATION PROJECT**

Derek Arthur, Project Manager, gave a presentation on the Civil Simplification Project which covered:

- The aims of the project and an update on progress made in various workstreams
- Clarification of next steps
- Proposed new civil forms/products
- Stakeholders consulted
- The purpose to review all aspects of civil legal assistance and take forward proposals agreed by Ministers arising from the Advice for All Consultation

- Progress made so far
- Deliverables – new civil forms/online products etc.

The result of the project was seen as one of making provision of legal aid more comfortable for the Board, making it more efficient and would be done on an ongoing basis.

Copies of the proposed new application forms in respect of family cases and civil sanctions were circulated to Members for information. The new forms had been designed to cut down the amount of information needed, would be available online for those solicitors who chose to complete the forms electronically, additional information would be available on the electronic forms by the inclusion of ‘pop up’ tabs.

The new forms would be discussed, in more detail at the next meeting of the Legal Services Policy Committee.

There was a concern raised about the timing of the means and merits part of the online application process. This was something that would be looked at once there had been an opportunity to pilot a small number of cases. It was also important that an effective communications strategy was in place to make the system easier for those solicitors who carried out a small number of legal aid cases.

The forms received positive comments from Board Members and the project was considered a valuable one which was moving in the right direction.

### **13. CORPORATE PLAN**

Members considered a report seeking approval of the draft Corporate Plan for 2008/11 prior to submission to the Scottish Government.

The report set out the proposed structure, content and timescales for publication. It also presented a substantial programme of development, reform and continuous improvement.

It was proposed to start a three year cycle this year. This was to recognise both the fact that there was a new Government in place with a term ending in 2011, and 2008 marks the start of a new three year spending review period.

Work would be undertaken on forecasting within the next three to four weeks.

Members considered the draft Plan very well written.

The comments and revisions proposed to the draft Corporate Plan would be pulled together into a collection of elements to ensure that it was consistent in terms of its structure, targets and achievements. To enable early sign off by Ministers, it was agreed that the revised draft for submission be delegated to the Chairman and Chief Executive.

### **14. OPERATIONAL PLAN**

Members considered a paper on the progress made in respect of the Operational Plan during the third quarter of 2007/2008.

Substantial progress had been made on a number of high priority projects. A large amount of time and resource was being channelled into the key areas identified in the paper. Scottish Government’s decisions were awaited in a number of areas.

Members were reminded that the areas highlighted in red were those influenced by the Scottish Government.

Members agreed that the Operational Plan was a clear, detailed and easy to read document.

## **15. PERFORMANCE AND RESOURCES**

Members considered a paper giving an update on operational performance and resources for the period from 1 October to 31 December 2007.

The following main points were noted:

- Legal aid fund cash spend was £115.8 million compared to an expected £116 million which was as expected.
- Grant-in-aid expenditure was on target against budget.
- Sickness absence was a bigger issue with the first nine months of the year not achieving its target of below 7.0 days per w.t.e.
- Civil applications were achieving all headline indicators and timeliness and accuracy targets for the year.
- Figures for children's legal aid had only been measured for part of the year. Performance was being managed separately.
- Advice and assistance performance had been affected by simultaneous introduction of the civil advice and assistance reforms, the new A&A computer system and new advice and assistance forms. However, after several months of very strong performance the year to date target was now being met.
- Accounts assessment exceeded headline indicators for the period and for the year, for all aid types.
- Each account type had exceeded the timeliness target for the period and the year.
- The backlog civil applications checks had been cleared.
- A part time Solicitor for criminal had been recruited and would be joining the ICQU at the end of March and it was hoped that the ICQU Accounts Officer who had been on extended sick leave would be returning to work soon. The priority then would be to develop and implement checks on children's legal aid accounts.

Members noted the position.

## **16. CONSULTATION: ALTERNATIVE BUSINESS STRUCTURES IN SCOTLAND**

The Board considered a paper outlining the consultation by the Law Society of Scotland and options for alternative business structures. The paper also proposed the basis of the Board's response to the consultation.

The Law Society's consultation followed on from the super-complaint made by Which? regarding restrictions on business structures and direct access to the Scottish legal profession

and the Office of Fair Trading's response to that complaint. The Board had considered the general issues arising from the super-complaint in September 2007.

It was hard to gauge at this stage with any amount of certainty what would be the ultimate extent of the changes and the likely impacts.

A number of potential risks had been identified and highlighted in the report.

It was proposed the Board respond to the Law Society's consultation in a broadly positive manner but stressing the importance of an impact assessment being carried out and on the basis that effective regulatory structures could be put in place whatever the business structure.

Subject to reviewing some of the wording the Board approved the draft response.

|             |
|-------------|
| ACTION: TCM |
|-------------|

## **17. DISABILITY EQUALITY SCHEME**

Members noted a paper giving an update on the progress of the Board's Disability Equality Scheme and planned equalities work for 2008.

The Board was under a statutory duty to publish a Disability Annual Report. This was published on 3 December 2007. The report highlighted the progress made since the publication of the Board's Disability Equality Scheme in December 2006.

The report demonstrated that the Board had progressed on all the commitments set out in the original Scheme and actions the Board had taken in the areas of communications, HR and Part V projects. The key issues for equalities work for 2008 were noted.

The Chairman had suggested that members have a short awareness session on equalities generally as a refresher.

|            |
|------------|
| ACTION: CD |
|------------|

The Board would continue to discuss with Scottish Government its responsibility for the actions of individual solicitors and advocates funded by legal aid and the monitoring of the services they provide from an equalities viewpoint. This had been discussed with the Law Society and meetings were being held regularly with other public sector organisations through equality networks to consider joint solutions to equality issues and share best practice.

It was noted that the Board was complying with the Equality Commission's terminology in its Disability Equality Scheme.

The Board noted the report.

**DATE OF NEXT MEETING: Monday 17 March 2008.**

The meeting ended at 3.50pm.