

THE SCOTTISH LEGAL AID BOARD
DRAFT MINUTE OF MEETING OF THE SCOTTISH LEGAL AID BOARD HELD AT
1.30PM ON MONDAY 30 AUGUST 2010 AT 44 DRUMSHEUGH GARDENS,
EDINBURGH

Present: Iain Robertson, Chairman
Graham Watson
Ray MacFarlane
William McQueen
Sheriff Ray Small
Les Campbell
Paul McBride QC
Elaine Rosie
Alastair Kinroy QC
Susan McPhee
Joseph Hughes

In attendance: Lindsay Montgomery, Chief Executive
Andrew Menzies, Director of Corporate Services and Accounts
Colin Lancaster, Director of Policy and Development
Tom Murray, Director of Legal Services and Applications (items 1-10 only)
Vince Simmons, Financial Controller and Brian Sinclair, Finance Analyst
(items 11-13 only)
Marie-Louise Fox, Head of Secretariat and Chief Executive's Office
Andrew McIntosh, Corporate Support Manager
Stuart Foster, Board Administrator

1. APOLOGIES FOR ABSENCE

Denise Loney.

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 19 JUNE 2010

The draft minute of the meeting held on 14 June was approved.

**4. DRAFT MINUTE OF THE LEGAL SERVICES POLICY COMMITTEE HELD ON
26 JULY**

The draft minute of the Legal Services Policy Committee held on 26 July was noted.

**5. DRAFT MINUTE OF THE LEGAL SERVICES CASES COMMITTEE HELD ON 19
JULY**

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

6. QUARTERLY ACTION POINTS

Noted.

7. CHAIRMAN'S INTRODUCTION

The Chairman advised that the Away Day scheduled for 1 November had been rescheduled. A strategy session would instead be held on the morning of an all-day meeting on 8 November.

8. CHIEF EXECUTIVE'S UPDATE

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

The Chief Executive also reported on work to review the Board's current priorities through the Operational Plan to take account of the necessary prioritisation of work on future expenditure and planning for longer term options as a result of the *Cadder* judgement. Decisions would need to be taken on the Board's ability to deliver against the full range of projects currently in the plan.

Members noted the position.

9. PROPOSED SECTION 31 EXCLUSION PROCEDURES

Members considered a paper regarding proposed procedures to be invoked in dealing with cases under section 31 of the Legal Aid (Scotland) Act 1986 once the Legal Services (Scotland) Bill had been enacted and responsibility for excluding a solicitor or counsel from giving legal assistance transferred from the Law Society and the Faculty of Advocates to the Board.

Members raised issues in discussion: in relation to paragraph 1 of the proposed procedure the Director of Audit and Compliance may submit a report to the Executive Team when he is satisfied there "appears to be" good reason for excluding a solicitor or counsel; in paragraph 2 the procedure should state conduct is "interpreted as" and give examples; in paragraph 3 the procedure should state that the letter will indicate a hearing "may be allowed at the discretion of the Executive Team" and that if a hearing is requested the solicitor or counsel should identify "why there should be a hearing and state the grounds on which it is sought and the issues of fact and law to be addressed at the hearing"; a minimum number of members is required to comprise the Executive Team (i.e. there should be a panel); the last sentence of paragraph 6 should be deleted.

It was AGREED:

- Tom Murray revise the procedures in line with the issues raised in discussion and submit them to the Chairman and Chief Executive for approval.

ACTION:TCM

10. PROPOSED DE-REGISTRATION

Members considered a paper which recommended that the Board invoke its de-registration procedure against a solicitor and the solicitor's firm.

In discussion, reference was made to the inadequacy of time-recording for the validation of accounts and the persistent and sustained non-compliance exhibited by the solicitor.

It was AGREED:

- to approve the recommendation that the Board invoke its de-registration procedure against the solicitor and the solicitor's firm.

ACTION: IGM/TCM

11. PERFORMANCE AND RESOURCES REPORT

Members considered a paper which provided an update on operational performance and resources for the period from 1 April to 30 June 2010. The main points included:

- Both Applications and Accounts for all legal aid types had met or exceeded the headline performance indicator for the year to date.
- Total Grant-in-Aid expenditure YTD for 2010/11 was £3.2m in the year to date compared to the budget of £3.7m, the variance being due to differences in the timing of certain payments versus their anticipated timing.
- Legal Aid Fund cash spend was £47.2m which while over the profiled spend was largely due to the speeding of payments of accounts in the short-term. It was anticipated that spend would fall back in line with the forecast cash flow profile before the year end.
- Invoice payments: the invoice turnaround target was to pay 90% of all invoices within 10 working days. Although the performance in June was slightly below this target, it was expected that there could be a temporary dip in performance during the introduction of document management in this area. Indications were that the overall monthly performance for July would be back above target.

Members noted the position.

12. LEGAL AID FUND FORECAST

Members considered a paper on the most recent revision of the forecast of Legal Aid Fund spend for 2010/11 and onward.

The forecast outturn expenditure for 2010/11 was £157.9, £1.2m up on the previous forecast (published in this year's Corporate Plan) - £0.6m of which could be attributed to the forthcoming increase in VAT; and £0.6m of which could be attributed to the costs of the interim arrangements that had been introduced to deal with the implications of the 'Cadder' case (reflecting the cost of advice tendered by solicitors prior to a police interview).

At £157.9m, the forecast was £3.4m above the Scottish Government's published funding for Legal Aid in 2010/11.

The Scottish Government had been alerted to the Board's prediction that the resources currently earmarked for legal aid expenditure in 2010/1 were likely to be inadequate to meet the Board's forecast of expenditure.

Members noted the position.

13. REVIEW OF EXPENDITURE

Members heard a presentation which considered options for making savings in expenditure.

Members noted the position.

14. PROCUREMENT UPDATE

Members considered a paper which updated the position on the current public procurement environment.

It was noted that the Board's development of accountability and governance in procurement, its involvement in collaborative procurement and its commitment to focussing on and tracking Best Practice had resulted in a sound baseline for procurement's performance. The procurement function would continue to measure and report on its activity, regularly to the Executive Team and at least annually to the Board.

Members noted the position.

DATE OF NEXT MEETING: Monday 8 November 2010.

The meeting ended at 3.25 p.m.