

THE SCOTTISH LEGAL AID BOARD
MINUTE OF MEETING OF THE SCOTTISH LEGAL AID BOARD HELD AT 1.30PM
ON MONDAY 8 FEBRUARY 2010 AT 44 DRUMSHEUGH GARDENS, EDINBURGH

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

In attendance: Lindsay Montgomery, Chief Executive
Andrew Menzies, Director of Corporate Services and Accounts
Colin Lancaster, Head of Policy and Development
Tom Murray, Director of Legal Services and Applications
Catriona Whyte, Head of Legal Services – Civil (item 9 only)
Simon Earl, Economic Analyst, Policy and Development (item 8 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

Kenneth Ross, 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 7 DECEMBER 2009

The draft minute of the meeting of 7 December 2009 was approved.

Members homologated the decisions taken in relation to items 15 and 16 (Business Case - Debt Management System and Equalities Annual Report).

4. DRAFT MINUTE OF THE LEGAL SERVICES POLICY COMMITTEE HELD ON 14 DECEMBER 2009

The draft minute of the Legal Services Policy Committee held on 14 December 2009 was noted.

5. DRAFT MINUTE OF THE AUDIT COMMITTEE HELD ON 7 DECEMBER 2009

The draft minute having been approved by the Audit Committee without amendment earlier in the day, the minute of the Audit Committee held on 7 December 2009 was noted.

6. CHAIRMAN'S INTRODUCTION

The Chairman reported that a large number of outstanding candidates had been interviewed for the Board member vacancies, with over 120 applications received. The results of the Interview Panel's deliberations had been passed to the Minister, who was expected to announce the successful applicants in mid-March.

Robert Gordon and Ken Thomson were moving on from their current roles as Director-General, Justice and Communities, and Director, Constitution, Law & Courts respectively. The Chairman expressed his appreciation for their support and contributions to the work of the Board.

7. CHIEF EXECUTIVE'S UPDATE

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

Additional updates were reported in relation to: the significantly increased workload being experienced at the Board as a result of the increase in civil and criminal volumes and the static administration budget; first instance and appeal fees for counsel; spend on grant funding; contributions in criminal legal aid; the Public Accounts Committee's report on the Legal Services Commission and a recent meeting with the new President of the Glasgow Bar Association.

Members noted the position and thanked Board staff for their efforts in this busy and extremely challenging period.

8. ECONOMIC ANALYSIS OF CRIMINAL LEGAL ASSISTANCE

Members considered a paper summarising the findings of a modelling exercise designed to assess the revenues and profits available to firms undertaking criminal legal assistance work.

The full costing model had now been updated with the firm cost assumptions previously considered by the Board, and the paper presented modelled figures showing the potential and actual profitability achieved from criminal legal assistance post summary justice reform.

The paper concluded that analysis of both real firms and modelled outputs showed that the current criminal legal assistance system was clearly capable of allowing firms to generate good percentage gross profit margins. As things stood, the payment structures for criminal legal assistance did little to promote the adoption of efficient sustainable business structures, although a number of other factors, including market saturation, firm break up and partner numbers prevented profit maximisation.

After discussion, it was AGREED:

- that the next steps would depend on consideration of the paper on funding and procurement of legal services at the following Board meeting;
- presentation of the findings to Government should be accompanied with clear options for the future and a comparison between the findings of the modelling exercise and the business model of the PDSO, in particular in relation to the operation of the duty scheme.

ACTION: CL

9. CONSULTATION: THE PROPOSED CIVIL PROTECTION ORDERS AND ACCESS TO JUSTICE (SCOTLAND) BILL

Members considered a paper outlining proposed issues to be raised in response to the consultation on the Bill, the objective of which was to address perceived problems with the existing provisions for civil protection orders in Scotland - access to justice and failure to provide a robust response to breached orders.

Members agreed with the points raised in the paper and expressed concern that the proposals appeared to have some flaws, with the consultation document containing a number of statements that suggested a lack of knowledge about the way in which the civil legal assistance system worked. This was particularly evident in relation to the authors not being aware of the special urgency procedure, the existence of which should be clearly highlighted in the Board's response. It was unlikely that many applications were concerned solely with these craves, so the proposals could create significant volumes of stand-alone actions. Also of concern was the mixing of civil and criminal processes.

It was AGREED:

- a draft response reflecting the issues raised in the paper and in discussion be circulated for comment prior to submission;
- the response would include any data on applications involving civil protection orders and whether they involved single or multi craves

ACTION: CAW

10. NEW INFORMATION AND COMMUNICATIONS TECHNOLOGY STRATEGY

Members considered a paper outlining the strategic direction for ICT at the Board over the coming years together with the draft ICT Strategy. The paper detailed the key elements of the strategy in relation to legal aid online, Best Value, and information sharing with partners.

After discussion, it was AGREED to approve the strategy and to share it with the Board's partners in the justice sector.

ACTION: AM

11. EFFICIENT GOVERNMENT UPDATE

Members considered a paper updating the position on the legal aid efficiency plans for both the Administration budget and the Legal Aid Fund.

It was noted that good progress was being made against the Efficient Government plans, and the savings forecast for 2009/10 were expected to be achieved.

After discussion, it was AGREED:

- the next report should provide information on the percentage of total costs saved and highlight the Board's policy of investing resources in order to achieve reductions in expenditure.

12. PERFORMANCE AND RESOURCES REPORT

Members considered and noted a paper reporting on operational performance and resources for the period from 1 October to 31 December 2009.

Members commended staff for coping so well with the significant increase in business volumes experienced in the year to date.

13. REVIEW OF STANDING ORDERS

Members considered a paper proposing amendments to the Board's Standing Orders.

After discussion, it was AGREED:

- Standing Orders be amended as proposed, subject to:
 - referring to lay members as opposed to “non-lawyers”
 - substituting the Supreme Court for the House of Lords under the Cases Committee remit
 - amending the paragraph references in relation to the section on decision making outside of meetings
 - providing wording for the “etc.” used in the Remuneration and Appointments Committee remit;

- the revised draft be submitted to the Chairman and Chief Executive for approval;

- further consideration be given to the Board committees periodically assessing their effectiveness in the same way as the Audit Committee.

DATE OF NEXT MEETING: Monday 15 March 2010.

The meeting ended at 3.15 p.m.