

THE SCOTTISH LEGAL AID BOARD
MINUTE OF MEETING OF THE SCOTTISH LEGAL AID BOARD HELD AT 1.45 PM
ON MONDAY 14 MARCH 2011 AT 44 DRUMSHEUGH GARDENS, EDINBURGH

Present: Iain Robertson, Chairman
Ray MacFarlane
Denise Loney
Les Campbell
William McQueen
Susan McPhee
Graham Watson
Elaine Rosie
Joseph Hughes

In attendance: Lindsay Montgomery, Chief Executive
Colin Lancaster, Director of Policy and Development
Tom Murray, Director of Legal Services and Applications
Andrew Menzies, Director of Corporate Services and Accounts
John McLeod, Head of IS (item 11 only)
Matt Taylor, Senior Analyst, Policy and Development (item 12 only)
Hazel Thoms, Project Manager, Policy and Development (item 13 only)
Steven Carrie, Senior Technical Specialist (item 17 only)
Marie-Louise Fox, Head of Chief Executive's Office and Communications
Department
Stuart Foster, Board Administrator

1. APOLOGIES FOR ABSENCE

Sheriff Ray Small, Alastair Kinroy QC, Paul McBride QC.

2. DECLARATIONS OF INTEREST

No interests not previously registered in the Register of Board Members' Interests were declared.

Susan McPhee declared a non-financial interest in relation to agenda item 13 (Targeted Grant Funding update) and did not leave the room for the discussion of that item.

3. DRAFT MINUTE OF MEETING HELD ON 7 FEBRUARY 2011

The draft minute of the meeting held on 7 February 2011 was approved.

4. DRAFT MINUTE OF THE LEGAL SERVICES POLICY COMMITTEE HELD ON 24 JANUARY 2011

The draft minute of the Legal Services Policy Committee held on 24 January 2011 was noted.

5. MINUTE OF THE LEGAL SERVICES CASES COMMITTEE HELD ON 24 JANUARY 2011

The minute of the Legal Services Cases Committee held on 24 January 2011 was noted.

6. DRAFT MINUTE OF THE AUDIT COMMITTEE HELD ON 7 FEBRUARY 2011

The draft minute of the Audit Committee held on 7 February 2011 was noted.

7. CHAIRMAN'S INTRODUCTION

The Chairman referred to a forthcoming meeting that he would attend with the Law Society to discuss issues arising from a recent newspaper article.

8. CHIEF EXECUTIVE'S UPDATE

Members considered a report by the Chief Executive updating them on matters of interest since the previous Board meeting. He reiterated the very substantial pressure of business the Board was operating under. In particular, the huge amount of work involved in the regulations and implementation of the Scottish Government's legal aid savings package.

The Chief Executive additionally reported that, following their recent visit, the Northern Ireland Legal Services Commission had expressed an interest in the Board providing IT support, including the legal aid online and digital systems. A European Union delegation undertaking a feasibility study on facilitating the online application of legal aid in the EU was currently visiting the Board to obtain information on how the online system operated.

Members noted the position.

9. DRAFT OPERATIONAL PLAN

Members considered a paper which introduced and set out the draft Operational Plan for 2011-12.

The paper outlined Board activity that would support the Scottish Government's national outcomes, whilst recognising the potential for change in legal aid policy resulting from the Scottish Parliamentary elections. The main focus of activity for the year was to deliver the Scottish Government's required savings to the Legal Aid Fund and the Board's running costs. Many projects were dependent on the Scottish Government and the Board was not in control of projects that required legislative or regulatory change.

It was AGREED:

- to approve the draft plan, including the proposed priorities for the year.

ACTION: AMcI

10. LEGAL AID FUND FORECAST

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

The Legal Aid Fund forecast outturn for the current year was £160.0m, which exceeded the government's allocation for such expenditure. Given that the legal aid fund was not cash limited and that resources would be required to be found by the Scottish Government to fund any shortfall in their allocation, the government had been alerted to the Board's forecast of spend..

It was noted that the Board had made significant efforts, along with the Scottish Government and the Law Society, to identify a range of savings to enable the Board to bridge as much of the

funding gap as possible, and would continue to work closely with them to identify, develop and implement any further savings opportunities.

After discussion, members noted the position.

11. REVIEW OF INFORMATION AND COMMUNICATIONS TECHNOLOGY (ICT) STRATEGY 2009-2013

Members considered a paper reporting on progress against the ICT Strategy 2009-13.

The strategy had been developed on the basis of technical, corporate and ministerial priorities and was monitored for delivery by the ICT Steering Group. The delivery plan was dominated by the target to allow only online applications for all legal aid types by 1 April 2011.

It was noted that, despite slippages in a few areas caused by unexpected legislative and policy changes, the overall position of the strategy was well placed to deliver its goals, with most key projects running close to schedule.

After discussion, members noted the very good progress being made in delivering the strategy.

12. TRENDS ANALYSIS

Members considered a paper summarising legal aid trends for the 12 month period from January 2010 to December 2010, compared with previous years.

Members noted the position.

13. TARGETED GRANT FUNDING UPDATE

Members considered a paper reporting on the development of the grant funding programme for 2011/12, the performance of the projects within the programme over the six months preceding the report, preparations for the next year of grant funding of existing projects, and risk management of the programme.

Members noted the progress made in reaching agreement with a significant majority of projects in the programme; formal offers would be made to them for the new grant term, and these were expected to be accepted, given the careful period of negotiation that had led to their preparation.

There were a small number of projects for which final sign-off on a proposed budget for continuation had not yet been achieved. A focused process of dialogue with each of those projects was underway in an effort to minimise risk and delay to the programme.

Members noted the position.

14. PDSO UPDATE

A verbal update was provided by the Director of Policy and Development.

The increased PDSO involvement with the duty plans in various courts since February had had an immediate impact on case volumes, particularly in Glasgow and Edinburgh, where the offices were very busy. The PDSO was not yet active on all the plans it would be involved with and recruitment of solicitors to do this was underway. Detailed monitoring was being undertaken to ensure that the levels of business and duty slots were in line with those projected and which would achieve the level of savings required by the Cabinet Secretary..

Members noted the position

15. TRANSFER OF SCOTTISH GOVERNMENT GRANT FOR THE IMMIGRATION ADVISORY SERVICE

Members considered a paper on progress towards the transfer from the Scottish Government to the Board of responsibility for grant funding the Immigration Advisory Service.

It was noted that from 1 April 2011, the Board would be responsible for administering the grant. Effectively, the grant currently supported economic migration and provided services for those not eligible for legal aid, so the transfer would involve a considerable shift in emphasis to grant funding asylum advice and casework, immigration casework for those eligible for legal assistance and privately feeing the immigration work currently done under the grant.

The emphasis to date had been on developing a project agreement, budget and objectives that enabled robust financial management and a strategic approach to service delivery while minimising disruption to IAS and its existing client base. Subject to resolving outstanding budgetary issues, it was considered that the Board was in a strong position to have the new service in place for 1 April 2011.

Members noted the position.

16. THE LEGAL SERVICES (SCOTLAND) ACT

Members considered a paper which set out the proposed approach to the implementation of the provisions of the Legal Services (Scotland) Act 2010, which amended the functions, powers and duties of the Board in relation to the monitoring of legal services in Scotland and the operation of section 31 of the Legal Aid (Scotland) Act.

It was noted that under the Act the power to exclude solicitors or counsel from providing legal assistance would transfer from the professional bodies to the Board. The Act also created a new power for the Board to provide advice to Scottish Ministers on the availability and accessibility of legal services, to which end the Cabinet Secretary had invited the Board to set up at a working level a reference group to bring together key stakeholders to assist the Board in discharging its new functions.

It was AGREED:

- to approve the approach proposed for implementing the new provisions and in particular the establishment and membership of the reference group, which would be called the Access to Legal Services Reference Group.

ACTION: CL

17. COMPARISON OF LEGAL AID FEES BETWEEN SCOTLAND AND OTHER UK AND IRELAND JURISDICTIONS

Members considered a paper reporting on progress made in benchmarking the different payment arrangements and corresponding fee levels operating between Scotland and the other jurisdictions in the UK and Ireland.

It was noted that this was a very complex project given the significant variations between the respective payment systems and different ways in which cases appeared to be reported in terms of cost and for management information purposes. The paper expanded upon these differences

and set out some initial findings. As agreed by The Legal Aid Joint Consultative Committee, further research would be undertaken with the aim of identifying approaches across jurisdictions that could lead to better outcomes in terms of cost or the justice system. It was expected that the review could be concluded by the third/fourth quarters of the next financial year.

Members noted the position.

DATE OF NEXT MEETING: Monday 9 May 2011.

The meeting ended at 3.40 pm.