

THE SCOTTISH LEGAL AID BOARD

MINUTE OF A MEETING OF THE LEGAL SERVICES POLICY COMMITTEE HELD AT 11.00 AM ON MONDAY 16 NOVEMBER 2009 AT 44 DRUMSHEUGH GARDENS, EDINBURGH

Present: Joseph Hughes (Convener)
Lindsay Montgomery
David Nicol
Elaine Rosie
Iain Robertson
Graham Watson
Kenneth Ross

In attendance: Tom Murray, Director of Legal Services and Applications
Kieran Burke, Support to the Director of Legal Services and Applications
Derek Arthur, Civil Simplification Manager (item 6 only)
Kingsley Thomas, Head of Criminal Legal Assistance (items 8 only)
Andrew McIntosh, Corporate Support Manager

1. APOLOGIES FOR ABSENCE

Graham Bell QC.

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 OCTOBER 2009

The draft minute of the Legal Services Policy Committee held on 5 October was approved with the following amendment:

- Item 14, first bullet point – *'solicitors should make the details of any fee agreement in place available to the Board, including information.....'*

4. ACTION POINTS

The Committee considered and noted a paper by Tom Murray setting out progress with the implementation of actions arising at the previous meeting.

5. DIRECTOR'S REPORT

The Committee considered and noted a report on matters of interest which had arisen since the previous meeting. There was some discussion around how agency solicitors could be best brought into the Criminal Quality Assurance process. This included, more generally, who would be liable – and any Board involvement – should an agency solicitor be accused of negligence.

It was AGREED:

- For the work on Criminal Quality Assurance, and more generally, there should be clear guidelines on how the Board regards the different relationships between the Board, registered firms, and their agency solicitors.

ACTION: TCM

6. SUPPLIER SUPPORT STRATEGY

The Committee considered a paper by Derek Arthur, providing information on the Supplier Support project which made a number of recommendations regarding the project's launch and roll-out.

Members generally welcomed the benefits that the project was expected to deliver. It was estimated that the project could deliver a minimum of £400k of savings over a three year period. Members were given assurance that the pilot had given the executive a fair flavour of the issues that could be expected and that the additional work created could be managed through existing staff complement.

Members agreed with all the recommendations in the paper and after discussion it was AGREED:

- It was important when communicating the project to not concentrate solely on any monetary savings but the wider benefits that the Board and solicitors would see;
- Consideration would be given to the possible sensitivities of communicating management information to firms;
- Success measures should be clearly defined before the project is launched;
- That the scheme would be launched next spring when the 'smart' reports had been developed;
- A phased roll-out would take place, starting with the top 50 firms in year one, leading to full roll-out in year three.
- Benefits would be measured and monitored at six-monthly intervals.
- This should be a risk management tool, and as such, firms should not be revisited every year if they were performing well.

ACTION: DA

8. CIVIL QUALITY ASSURANCE

The Committee considered a paper by Tom Murray, updating them on progress with reviewing the operation of the civil quality assurance scheme. Discussion focussed on the work being carried out to improve the random selection of files – files selected from firms with a higher number of partners were not always a representative of its work.

After discussion, it was AGREED:

- That the project would also need to ensure that the files selected took adequate account of work in mental health and asylum and immigration;
- The trends paper would be circulated to members for comment prior to circulation.

ACTION: TCM

9. SOLEMN CRIMINAL LEGAL AID – UNDUE HARDSHIP CONSULTATION

The Committee considered a paper by Tom Murray which provided members with the final version of the proposed consultation document on how the Board intended to apply the undue hardship test in solemn cases.

After discussion it was AGREED:

- That reducing the limit for vouching of outgoings from £500 to £200 was needed as it would encourage the required culture change. However, this could not be done without also changing the limit for summary criminal legal aid. Data would first need to be analysed on the checks done for summary criminal legal aid.
- The consultation document would be amended to say that the vouching limit was currently £500 but that the Board was considering the need to lower this to £200;
- A short section would be added to the document, making it clear exactly what the Board was seeking views on;
- The second bullet of Paragraph 1.8 would be re-worded to make it clear that impact of the inability to collect contributions impacted on the taxpayer, not the applicant. The word ‘artificially’ should be changed to ‘significantly’;
- Consideration should be given to having more examples in Appendix 2;
- That Appendix 1 was not needed and should be removed;
- Reliance Custodial Services and defence agents would be removed from the consultation list and the Lord Justice General, the Scottish Law Agent’s Society, and High Court Judges would be added;
- The availability of the consultation document on the Board’s website should be communicated more widely.

ACTION: TCM

10. AOB

RESPONSE TO THE CONSULTATION ON THE LIMITED REVIEW OF THE MENTAL HEALTH (CARE AND TREATMENT) (SCOTLAND) ACT 2003

The Committee had not considered the response fully and members would submit comments shortly.

LEGAL AID FOR SEXUAL OFFENCES

After discussion, it was AGREED:

- That consideration should be given to any risks posed to the Board where an accused, not in receipt of criminal legal aid for an alleged sexual offence, is appointed legal representation by the Court on the basis that he is legally unrepresented in those proceedings.

DATE OF NEXT MEETING: Monday 14 December 2009 at 10.30a.m.

The meeting ended at 12.45 pm.

DRAFT