

SCOTTISH LEGAL AID BOARD**EXTERNAL COMMUNICATIONS STRATEGY****PURPOSE**

1. This paper outlines the approach reflected in the Board's draft external communications strategy for 2008-2010.

ACTION

2. The Board is asked to comment on the paper and draft strategy, considering in particular the points raised in the conclusion and, subject to any amendments, approve the proposed approach and attached draft strategy.

PREPARATION OF THE PAPER

3. This paper has been prepared by Colin Lancaster, Director of Policy and Development and Colin Sim, Communications Manager, with input from the Chief Executive.

BACKGROUND

4. This paper outlines a proposed approach to the external communications strategy for the next two years. A previous draft strategy was considered by the Board in March 2007, and the approach set out in this paper reflects the comments made at that meeting and further discussion with members, including at the Strategy Day in December. A draft of the strategy is attached.
5. The strategy provides a framework for the Board's external communications over a period that will see a large programme of change and development, where communications will be central to success. The proposed approach is therefore for the strategy that is flexible to accommodate changes and reflects the issues in the Board's vision statement and Corporate Plan.
6. The strategy itself is fairly high level and seeks to ensure that we have a clear view of the key audiences the Board needs to communicate with and the key messages we wish to communicate to them. It also sets out broadly how we intend to do this. The strategy does not and, it is suggested, should not cover every element of external communication that we can foresee at this stage. Instead, it is proposed that in implementing the strategy we develop more detailed communications activity programmes for individual projects, issues and audiences. These will include development of our key messages, which will vary for different issues and audiences but all of which should be consistent with the Board's overall strategic key messages.
7. The development and delivery of these individual programmes will be a key element of the Board's project and programme management methodology and progress will be monitored regularly in line with individual project or programme governance arrangements. We will also regularly review the strategy and activity programmes as part of our operational planning processes.
8. For the strategy to be delivered, significant change will be required to how the organisation as a whole considers and delivers on communications issues. Managers and directors will have to become far more proactive in identifying, planning and taking forward opportunities for communicating key messages, both in relation to the day to day business and in their roles as

project managers and sponsors. This is not something that can or should be left to the communications team to deliver.

9. In addition, the communications team currently has a very heavy workload in relation to implementation of reforms and especially the development and production of new forms, guidance and training materials. We will be seeking ways of redistributing responsibility for much of this work, to reduce the risk that too little time is left for the more proactive and strategic work set out in the strategy.

RELATIONSHIPS WITH OTHER WORK

10. The external communications strategy does not exist in isolation and is not designed to cover every element of communication between the Board and an outside party. While the communications strategy is the main point of articulation for a range of communications issues, we have or are developing a number of interrelated strands of work. These include

- *Stakeholder engagement programme*

Members will recall that our programme of surveys and other engagement with stakeholders, including the legal profession, applicants and opponents, the advice sector and, potentially, MSPs and the judiciary. This programme is monitored and reported separately through the operational plan and research strategy updates to the Board.

- *Strategy for the training and development of the profession*

We are currently developing a separate strategy to encompass our activity in relation to the training and development of the profession. This will cover a range of issues. At one level, it will include our work to ensure that the profession are well equipped to deliver a legal aid service in an effective and efficient way, including the further development of the Handbook, other guidance mailshots, the Recorder, training seminars, roadshows, faculty visits and online training.

The strategy will also look at ways of promoting legal aid-type careers for young lawyers and law students, building on the results of the recruitment and retention research and incorporating a potentially far more strategic and proactive approach to promoting, supporting or providing traineeships in firms delivering legal aid work or our own networks of employed solicitors.

- *Supplier support strategy*

Over and above the training strategy, we aim to further develop our approach to supplier support. Currently being developed as part of the simplification project, this strategy will set out the relationship we aim to develop with our suppliers (solicitors, advocates and third parties such as experts) to help develop a commitment on their part to delivering legal aid services and on our part to help them do this well.

This is likely to involve a far more proactive and informal level of individual contact than we have at present, giving us opportunities both to convey messages to individual solicitors and firms and to gauge from them how the system is operating in practice and what issues they are facing. This will not only enable us to monitor and improve the operation of the current system, but will also provide us with first hand evidence to contribute to the development of reform proposals.

Taken a step further, networks of suppliers could be established to provide an alternative means for the board to engage with the profession across the country and in different areas of specialism, to complement the relationships we already have through the Law Society, individual faculties and bar associations and specialist groups.

- *Simplification programme*

Part of this programme focuses on the simplification of the legal aid forms, a key point of interaction with the profession and applicants. For applicants, we are also piloting telephone means assessments to establish whether this is valued by applicants, speeds up

the process and provides a better way of ensuring we receive all necessary verification of means.

- *Online strategy*
The increased take up and continued development of legal aid online gives us opportunities to communicate with solicitors, and in due course hopefully applicants and opponents, in new ways. For solicitors, we will seek both to deliver news and updates online and to integrate the online systems with our Handbook, providing easily accessible support for solicitors not just on the use of the online system but on the legal aid system itself.
- *Customer service strategy*
We intend to revisit previous work carried out to develop our approach to customer service. Amongst other things, this is likely to review how we deal with applicants, including use of telephone and online tools as opposed to written communication, and standards and training for both telephone and written communication, including standard letters. This work will benefit from the previous and planned applicant, opponent and solicitor surveys, as well as lessons learned from our current telephone means assessment pilot.
- *Grant funding and public legal education*
Members may recall that the strategy approved by the Board last year for the development of grant funding included a strand of work focusing on improving access to advice and the early resolution of problems to avoid escalation. It was envisaged that this strand might include the provision of early information by web, telephone and leaflets about the problems people might encounter, their rights in relation to those problems and the steps they might take to resolve them, including information about publicly funded sources of help, advice and representation. This therefore goes beyond and potentially subsumes the scope of the information leaflets we currently produce and which have been a key part of our external communications strategy for members of the public.
- *Management information strategy*
The Board holds a vast amount of information about cases and uses this increasingly to monitor trends, both within legal aid and the wider justice system, provide evidence for reform, monitor the impact of reforms and identify fraud and abuse. The task of extracting and analysing this information is complicated and time consuming but, as the Board's computer systems move onto a shared common platform, the opportunities to do more and do it better multiply. We are currently developing a management information strategy that will set out our aims in this respect and the steps needed to realise them.
- *Research strategy*
As part of the research strategy, we will develop dissemination strategies for individual projects and be more proactive in ensuring that the research section of our web-site is kept up to date with progress updates and research reports and briefings. We will also produce separate articles and briefings to ensure that the Board's research reaches as wide an audience as possible.

KEY STRATEGIC ISSUES

11. The Board is keen to ensure that the profession, public and politicians see both legal aid and the Board in a positive light. This is always likely to be a challenge. Much of what is reported in the press is either negative and/or is based on misconceptions, and this is also reflected in our dealings with the legal profession and at times in the correspondence we and Scottish Ministers receive in relation to legal aid. Considering the range of different interest groups, the key messages relating to legal aid that have greatest currency appear to be:

- Legal aid is a gravy train for rich lawyers (public as taxpayers, some politicians and media)
- Legal aid is for crooks and chancers (public as taxpayers, some opponents, some politicians and media)

- Legal aid pays poorly, so lawyers are abandoning it and/or deliver a second class service (profession, public as applicants or potential applicants, some politicians, some media, advice sector)
- Legal aid is hard to get (profession, public as applicants or potential applicants, some politicians, some media, advice sector)
- Legal aid is bureaucratic (media, profession, some politicians, some applicants and opponents)
- The legal aid board is bureaucratic (media, profession, some politicians, some applicants and opponents).

12. By way of contrast, it is suggested that the key messages the Board would like to gain currency should be

Legal aid as a service

- Legal aid helps many people in times of need to deal with problems they might otherwise be unable to resolve
- The help legal aid gives in resolving problems prevents them becoming more serious and costing the taxpayer more money in the long run
- Criminal legal aid is a vital safeguard of rights in a civilised society
- Legal aid helps the justice system work better
- Legal aid is provided by a widespread network of committed and high quality service providers
- Legal aid – both civil and criminal – is means tested, and we recover some of the cost

Legal aid board

- The legal aid board makes sure that taxpayers money is spent properly
- The legal aid board makes it as easy as possible for eligible people to get legal aid when they need it
- The legal aid board promotes access to justice
- The legal aid board provides value for money
- The legal aid board is reducing bureaucracy
- The legal aid board is always trying to modernise and improve both what it does and how the legal aid and justice systems operate
- The legal aid board is a capable organisation, performing its functions well and delivering a better legal aid system.
- The legal aid board is a leading Scottish NDPB

13. The key strategic issue for the Board's communication strategy is how to move our key audiences from the former to the latter set of views. As part of this, the Board will wish to consider how closely intertwined it wishes the Board as a public body and legal aid as a public service to be, including perhaps the extent to which the Board's activities and the activities it funds should be identifiable as a consistent 'brand'.

ENGAGING WITH KEY AUDIENCES

14. At the last discussion of external communications in March 2007, members were keen the strategy take account of each of our main audiences, setting out why we need to engage them, what it is we hope to achieve and how we measure whether we have achieved it. These points are addressed below.

Public

15. The public have interests in legal aid as both taxpayers/members of the general public and as applicants/opponents or potential applicants/opponents. We need to engage with the public in

both capacities, ensuring that our modes of communication effectively meet their needs and are clear, concise, up to date and accessible (including for those with disabilities or for whom English is not a first language).

16. As taxpayers/members of the general public, we need to present a positive picture of legal aid, both as a valuable public service and a well run part of the public sector.
17. As applicants, we need to ensure that we provide accurate and timely information at all stages of a case and a high level of customer service to ensure both that we get what we need from applicants (such as information to verify eligibility) and that the legal aid process is seen by applicants as an efficient and pain-free part of what will often be a very stressful wider legal process.
18. As potential applicants, we need to ensure that information is available *when it is needed* to help someone with a legal problem determine whether they will be able to take action to resolve it even if they don't think they can afford a solicitor. The difficulty for us here is that legal aid is not an end in itself, but hopefully facilitates the resolution of a problem by way of services provided by an external party. For the most part, the Board is therefore not simply 'marketing' a service at an identifiable customer base.
19. If wider policy developments were to give the Board a broader role in future then, as suggested above, much of our strategy for communicating with the public in their capacity as potential applicants would form part of a wider public legal education strategy.
20. In addition, it should also be noted that the public *are* potential service users as the Board develops wider networks of employed solicitors through Part V and the PDSO. We have separate communication strategies for these services.

Profession

21. Much of our communication activity with the profession has focused traditionally on ensuring that they are equipped to deliver an effective legal aid service by way of training and provision of guidance. We have developed a number of means of doing this and, as set out above, we will be reviewing these mechanisms and their effectiveness as we develop our external training and development strategy. This will be considered by the Board in September.
22. Although that strategy will also focus on establishing positive images of legal aid as a career option, it is important that the communication strategy recognise the importance of sending positive messages to the profession. Even though we are developing greater direct contact, the profession is still often an intermediary between us and applicants or potential applicants. Individual members of the profession and some of their representative bodies are also what we might call 'opinion leaders', in that they can be quite successful in getting their own view of legal aid accepted as fact by the media, some politicians and the public.
23. We have seen recent media and lobbying campaigns by the Family Law Association on civil legal aid fees and, perhaps less successfully, the Glasgow Bar Association on summary justice reform. The extent to which these groups' messages hit home depends to some extent on the profile of an alternative viewpoint, or simply alternative information. The Board has access to far more comprehensive and accurate information about the operation of the legal aid system and wider justice system than any solicitor or group of solicitors. This often allows us to satisfy ourselves that the claims made by the profession on certain issues, for example the emergence of advice deserts, are not true, or that positions are less stark than may be painted by the profession and the press that picks up their stories.

24. We have not, however, been particularly proactive in getting this information out so that myths can be scotched before they gain currency. It is generally better to be proactive than reactive, but we tend to be neither. This is sometimes the best policy when, for example, responding to a story in the press may in fact lend it greater currency than it would otherwise have. However, we have also found in relation to the profession that, when confronted by transparent facts that go contrary to their received wisdom or anecdotal evidence, issues are sometimes quietly forgotten.
25. As the profession becomes more and more willing to use the Freedom of Information laws to request information that they think will support some cause or another, the Board should also be thinking strategically about which information it needs to make available on a regular or one-off basis with a view to preventing the spread of rumour and anecdote as fact. This will be addressed as part of our review and development of a new strategy for management information which will consider how to exploit more fully our own website and links from and to related websites to make statistical and research information available to a wider audience on a more regular basis.
26. Where our information shows negative things about, say fraud and abuse, we should also make this available to help establish both for the profession, including in their advice to clients, and the public at large that the Board is proactive in detecting fraud and abuse and that some of the perceived bureaucracy in the system is in fact a proportionate response to the risk of fraud and abuse.
27. At the same time, we need to do more to reiterate to members of the profession and, in turn, the public, media and politicians, that we recognise the important contribution made by the profession and wish to work in partnership to improve the operation of the legal aid system to the benefit of all concerned, but especially clients.

Other advice providers

28. Due to last year's change in government, we have not made the progress in policy terms that we would have hoped in establishing a more operational relationship with the advice sector and local authorities. We continue to explore with Government their intentions in this area. Assuming that some progress is made in any or all of grant funding, advice and assistance by non-lawyer advice organisations and planning and coordination, we would intend to develop project specific communications plans.
29. In the meantime, the results of our advice sector survey suggests that we need to improve the availability and uptake amongst the advice sector of some of our existing information, such as leaflets, solicitor finder tool and online eligibility calculator, as well as perhaps providing more focused training and information for some advisers. This is important to us because the advice sector is one of the entry points to the legal aid system for potential applicants and so we need to harness the potential the sector holds in ensuring that people have early access to appropriate and accurate information.
30. As the Board develops more and more proactive direct contact with applicants, particularly over means assessment issues, we also need to consider whether there is an additional role here for the advice sector. The recent survey suggests that the sector is often asked for help in filling in legal aid forms. This is clearly something that, in other contexts, the sector has great experience in, for example benefits forms. We may wish to consider whether we should have direct communication with advisers about individual cases, as is allowed by the DWP, rather than insisting that we deal directly with the applicant. This may help the applicant, the adviser and the Board, in that we may be able to get further faster in terms of completed forms and submission of verification of means.

MSPs

31. It is important for the Board to communicate well with MSPs on a number of different levels. In their role as constituency representatives, we need to ensure that MSPs and their offices have access to up to date information about legal aid in order that they can deal effectively with enquiries from constituents. This will help the Board ensure that applicants or potential applicants receive appropriate information. Although this might be in much the same way as through the advice sector, MSPs are clearly going to be less frequent sources of legal aid information and advice and so we will have to adjust our methods accordingly.
32. MSPs are also a key audience when it comes to legal aid reform. We need to ensure that MSPs – and particularly the Justice Committee - are kept up to date on developments in legal aid, especially as many of them will be lobbied by the profession and others with an interest. We need to make sure that they have accurate information to refute or confirm anecdotal statements and give them the best possible evidence on which to take a position, for example in parliamentary debates or committee consideration of proposals or legislation, and to respond to correspondence from constituents or lobby groups.

The judiciary and justice system agencies

33. Individual members of the judiciary are showing an increasing interest in legal aid. We have had some success in changing their view of legal aid as potentially being a blockage in the justice system to being a key element of making reforms work. Sheriffs and judges are becoming more proactive in contacting the Board to confirm the position when agents use legal aid as a reason for seeking an adjournment, and several sheriffs principal are now seeing the value of legal aid data alongside their own data on the business in their courts (and other comparison courts).
34. Similarly, the Scottish Government and other justice system agencies have responded well to information we have been able to give them on trends and other specific issues. We need to capitalise on this by ensuring that information is available to the judiciary and other agencies on a regular basis, for example to help them monitor the impact of summary justice reform at individual court level. We also need to ensure that the judiciary has access to up to date information on changes that may be made to the legal aid system, on legal aid costs and some of the drivers of this (which may be court-related) and on the way we make decisions on legal aid applications and matters such as sanction for experts and counsel. This will help ensure that, where relevant and appropriate, the judiciary takes steps to prevent the way cases run from increasing the pressure on public funds.

The media

35. Although not an audience as such, the media is a crucial means of us getting our key messages across to our other audiences and can also be a key source of the negative or misconceived messages about legal aid that cause us difficulty. Our key communications staff have developed good relations with the media and we have been fairly successful over the years in reducing the impact of potential negative media coverage, and much coverage of legal aid issues has focused on the role of the profession or the government and not the Board itself.
36. However, there have been several recent stories that have been less favourable for both legal aid and the Board and it is clear that certain elements in the media have a fairly negative style when it comes to legal aid issues and are happy to cover negative stories given to them by a few key individuals in the profession.
37. As noted above, the Board's policy has generally been not to respond to negative stories and to avoid the Board becoming the story itself, including when trying to attract positive media

coverage. This continues to underpin our approach to the media. We will need to carefully consider on a case by case basis whether it serves our interests best to respond to stories that are directly critical of the Board, or of some aspect of legal aid. Such decisions can be quite finely balanced and we will need to weigh the benefits of reducing the potential damage of a story itself on the one hand against the possibility that keeping the issue in the spotlight may simply give the media a second bite at the cherry. Not to respond can itself be a positive decision.

38. We need to consider how negative we are willing to be about individual solicitors or groups who are generating stories in an attempt to dissuade them from doing so or the media from carrying their stories. In the first instance, we should engage directly with these individuals to see whether we can address some of the issues they raise, particularly where these are based on misinformation or misconceptions. This opportunity should also perhaps be taken to point up to them any shortcomings in their own legal aid practices that may, if made more widely available, suggest that they were perhaps not the most 'reliable of witnesses'.
39. Where we consider that a particular story has caused or is likely to cause difficulty for the Board and that it is appropriate for us to act to limit this, we need to be in a position to respond quickly, either before a story is run (the approach we tend to have taken to date) or immediately after it is published. In addition, if our concern is that a story is likely to influence the views of a particular key audience, we should seek to reduce its impact by providing relevant briefing, for example to key MSPs.
40. Another issue for the Board in relation to the media is that, for many issues, we have tended to view the responsibility to manage media reporting as lying with the Scottish Government, for example over fees issues. However, if the Government decides not to respond to an issue, as with much of the current coverage of summary justice reform, the Board's interests may still be harmed. While working with the Government's own press team might help in terms of clout with the media, we should also consider whether we should sometimes go it alone when it comes to reactive press work.
41. Previous discussions have suggested that members are also keen for the Board to be more proactive in getting positive coverage for legal aid issues in the media. This is generally quite difficult to achieve, as there appears to be little appetite amongst the national press at least for good new stories. However, the local and specialist press may provide a more fruitful avenue for the Board, and we should perhaps be developing a more concerted approach to these parts of the media.
42. As a national body with one central location, the Board has generally had relatively little local contact. However, the Board future strategic direction should offer more opportunities to attract local coverage, for example through PDSO and Part V projects. Work with the advice sector and local government will also give us more of a local face.
43. The specialist press, such as the Journal, the Firm, SCOLAG and Holyrood may also be more interested in running features generated by the Board or otherwise dealing with legal aid issues. Although these may have limited readership, they are likely to reach specific audiences in a way that we would otherwise find difficult.

EVALUATING THE IMPACT OF OUR EXTERNAL COMMUNICATIONS

44. As demonstrated by the range of inter-related strategies and projects set out above, it is difficult to isolate communications activity from other operational or developmental activity. It is therefore often difficult to measure the impact of particular pieces of communication or specific approaches. Nevertheless, there is a need for the Board to satisfy itself that its activity is having the impact intended.

45. There are a number of ways in which this might be done. For example, given that a number of the actions we would propose for our communication with applicants and the advice sector have been informed by our surveys of those groups, follow up surveys could be used to gauge whether we have improved the position. Similarly, for the general public we have already carried out some general perception survey work. More specific surveys could be carried out pre and post a particular campaign or programme of work to gauge its impact. Such surveys tend to be relatively quick and inexpensive, so need not be reserved only for large scale projects.
46. We would propose that individual communications plans for specific projects or issues should include a plan for the monitoring of their own success or otherwise.

SUMMARY, CONCLUSIONS AND RECOMMENDATIONS

47. This paper sets out the proposed approach to the Board's strategy for external communications. Members are asked to note the range of related activity set out in the paper, as this has influenced the scope and content of the draft communications strategy itself.
48. The key points for the Board to consider (either because they are priorities for the strategy or represent a significant change from the previous strategy) are:
- the key messages – are they the right ones? (pages 3-4)
 - the key audiences – have we identified them all? (pages 4-7)
 - a greater emphasis on proactive work, with key individuals (within the profession, MSPs) and the media
 - while continuing to ensure that legal aid is the story and not the Board, whether we should be more robust in downplaying or rebutting stories, or sources of stories (paragraph 38)
 - how far we should make public some of our concerns about the legal aid system, particularly where we might like the Government to take specific issues forward
 - how far the Board should be seeking greater direct contact with, for example, MSPs, with a view to keeping them informed and engaged with the issues as the Board sees them (paragraph 32).
49. Subject to members' approval of the draft strategy, a more detailed plan will be developed setting out our proposed activity at a corporate (as opposed to project) level. This plan will be reflected in the operational plan and progress will be reported to the Board on a quarterly basis. We would propose to review and refresh the communications strategy itself on an annual basis.