

**THE SCOTTISH LEGAL AID BOARD  
MINUTE OF MEETING OF THE SCOTTISH LEGAL AID BOARD HELD AT 1.30PM  
ON MONDAY 11 DECEMBER 2006 AT 44 DRUMSHEUGH GARDENS, EDINBURGH**

Present: Iain Robertson, Chairman  
Graham Watson  
David Nicol  
Margaret Scanlan  
Paul McBride  
Susan McPhee  
Elaine Rosie  
Ellen Morton  
Graham Bell  
Kenneth Ross  
Joseph Hughes  
Mahendra Raj

In attendance: Lindsay Montgomery, Chief Executive  
Andrew Menzies, Director of Corporate Services and Accounts  
Tom Murray, Director of Legal Services and Applications  
Ian Middleton, Director of Audit and Compliance  
Marie-Louise Fox, Solicitor - Legal and Policy Support to the Chief Executive  
Stuart Foster, Board Administrator  
Diane Ireland, Legal Aid Online Manager (item 9 only)  
John McLeod, Head of IS (item 9 only)

**Bereavement**

The Chairman reported that Andrew Dickson, formerly Head of Access to Justice Division at the Scottish Executive, had died. He referred to Mr. Dickson's helpful, industrious and considerate nature. He would be sadly missed. The Chief Executive had written to Mr Dickson's widow to express the Board's condolences.

**1. APOLOGIES FOR ABSENCE**

Willie Gallagher and Les Campbell.

**2. DECLARATIONS OF INTEREST**

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

Paul McBride and Margaret Scanlan declared interests in relation to item 16 (Possible Further Deregistration).

**3. DRAFT MINUTE OF MEETING HELD ON 6 NOVEMBER 2006**

Subject to correcting the spelling of Lord Coulsfield, the draft minute of the meeting of 6 November 2006 was approved.

**4. DRAFT MINUTE OF THE LEGAL SERVICES POLICY COMMITTEE HELD ON 6 NOVEMBER 2006**

The draft minute of the Legal Services Policy Committee held on 6 November 2006 was noted.

## **5. DRAFT MINUTE OF THE LEGAL SERVICES CASES COMMITTEE HELD ON 23 OCTOBER 2006**

Subject to noting that Susan McPhee had tendered her apologies for the meeting, the draft minute of the Legal Services Cases Committee held on 23 October 2006 was noted.

## **6. QUARTERLY ACTION POINTS**

Members considered a paper setting out outstanding actions points from earlier meetings.

It was noted that regulations to make changes to civil block fees were expected shortly, and the new Deputy Minister was giving consideration to review of the basic unit. A letter had been received from the President of the Sheriffs' Association expressing their members' concern that the Board was endeavouring to restrict the use of curators and reporters. The Chief Executive would contact him to clarify the Board's intentions.

**ACTION: LM**

## **7. CHAIRMAN'S INTRODUCTION**

The Chairman referred to a number of meetings with outside bodies that he had attended.

## **8. CHIEF EXECUTIVE'S UPDATE**

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

Updates were provided on: Annual Report and Review; Regulation of the Legal Profession and Legal Aid (Scotland) Bill; counsel's fees; solicitors' fees; PDSO expansion.

Members noted the position.

## **9. LEGAL AID ONLINE UPDATE**

Members considered a paper and heard a presentation on legal aid online.

It was noted that the Board's strategy was to:

- improve the efficiency and speed of A&A online by completing the re-write of the A&A system by the end of the current financial year;
- migrate to a single A&A case management system, supported by intelligent scanning of forms by around April 2007;
- implement the remaining post-application forms for Civil Legal Aid in January 2007;
- complete development of online accounts for Civil by the end of 2006/07, for testing and wide-scale availability during Q1 2007/08;
- implement the first phase of criminal online (re fixed fees and duty scheme) by April 2007;
- develop the final phase of criminal online for implementation at the end of 2007 to tie in with the proposed reform of summary justice and summary criminal legal assistance.

Importantly, the strategy aimed to make available and promote higher usage of the Board's online facilities both now and as further elements were introduced. In addition to the development of computer systems outlined above, the Board would adopt a number of strategies to force the pace of growth in usage:

- increasing awareness – through road shows and direct marketing.
- increasing responsiveness – the Board had implemented a number of liaison and user groups to ensure that the development of the systems was reflective of user needs.
- training – to coincide with the availability of the re-written A&A online system and the availability of the full suite of civil application types, the Board would shortly issue a tender for the delivery of a nationwide series of training/rollout visits to firms of practitioners.
- self service sign-up – aimed at more computer literate firms/users, the Board was currently piloting the facility to sign-up and go live, with the aid of video demonstrations and contextual help, but without the need for a visit by Board or outsourced staff.
- integration with solicitors' and law accountants' case and accounts management systems – the Board was finalising the development of a means to allow external parties to interface their own systems with Legal Aid Online, via a system map ('xml schema') allowing individual or batch input from their remote systems, without duplication of effort.

It was also intended to maintain a constant review of capacity of the Board's systems and communications links to ensure that these did not impact on the speed of the system for users.

After discussion, members noted the position.

## 10. PERFORMANCE AND RESOURCES

Members considered a paper updating the position on operational performance and resources for the period from 1 August 2006 to 31 October 2006. In particular, it was noted that:

- Criminal, Civil and Advice & Assistance applications and Accounts Assessments had met the headline performance indicators for year to date;
- the improvement in Civil Applications performance, following the implementation of the new computer system, had been maintained;
- total Grant-in-aid expenditure was £6,933k;
- Legal Aid Fund Expenditure up to the end of October was £85.2m, in line with the Board's projection for the full year of around £146m;
- across all PDSO offices, non-duty solicitor work accounted for 79% of all new cases in the year to date; compared to 64% in the same period last year;

In discussion, reference was made to issues raised by some solicitors in relation to the use of templates and A&A increases.

After discussion it was AGREED:

- a paper be submitted to the LSPC on the usage of A&A templates, and whether these were operating as planned;
- otherwise, to note the position.

<b>ACTION: TCM</b>
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## 11. REVIEW OF PERFORMANCE INDICATORS

Members considered a paper reviewing the structure of the Board's performance indicators and current targets, and setting out new categories for which targets would be set. The paper also outlined the process for producing the Corporate Plan 2006-07.

It was noted that feedback from the survey of the Board's stakeholders about our performance indicators indicated that most thought they were meaningful and were strongly linked to the operation of the business and the provision of a quality service. It was considered there was no sound basis for changing the Board's fundamental approach to performance measurement. Such changes as were proposed were set out in the paper.

After discussion, it was AGREED to approve the proposed approach to be taken to performance indicators.

**ACTION: M-LF**

## **12. REVISED BOARD VISION STATEMENT**

Members considered a paper which set out a revised Vision and Strategy Statement following discussion at the Strategy Away Day.

The Vision and Strategy Statement outlined how the Board wanted to develop, where the Board wanted to be, and how this would be achieved. It also provided the basis for the three year Corporate Plan and the annual operational plan.

In discussion, members made a number of suggestions to clarify the wording of some aspects of the Statement.

After discussion, it was AGREED:

- subject to incorporation of revised wording to reflect the points raised in discussion, to approve the revised Vision Statement for sending to Ministers for information.

**ACTION: M-LF**

## **13. EMPLOYED SOLICITORS TO PROVIDE CIVIL LEGAL ASSISTANCE**

Members considered a paper updating on progress in implementing previously agreed proposals for the employment of solicitors by the Board to provide a civil legal assistance service in areas of identified need.

Scottish Executive officials had since written to the Board, approving our proposals and authorising expenditure of funds sufficient for six to eight solicitors. Members noted the position and the intended programme to be followed:

- recruitment of the Head of Service;
- early recruitment of a solicitor to be based in Inverness;
- a period of development work to be undertaken by the Head of Service along with the Board's Policy and Development Department for the identification of suitable further CLAO locations, including selection criteria;
- submission of detailed proposals to the Board in due course;
- a further paper would be brought to the Board once research had been completed on where the new solicitor should be located.

**ACTION: CL**

#### **14. DISABILITY EQUALITY PLAN**

Members considered a paper updating them on the action taken to develop the Board's first Disability Equality Scheme that was published by 4 December to meet the requirements under the Disability Discrimination Act 2005.

The Disability Discrimination Act 2005 amended earlier legislation by introducing the disability equality duty – a duty aimed at tackling systematic discrimination and ensuring that public authorities built disability equality into everything they did. A key aspect of the specific duties of the Act was the requirement to produce a Disability Equality Scheme. Bodies subject to the specific duties (including the Board) were required to publish a scheme by 4 December 2004.

After discussion, it was AGREED:

- to include legal aid online at paragraph 5.2.2 of the Scheme;
- to note the work undertaken since the last update, and the successful completion and publication of the DES within required statutory timescales;
- otherwise, to approve the scheme.

**ACTION: HT**

#### **15. POSSIBLE DEREGISTRATION**

The Board at its meeting on 11 September had agreed to invoke the de-registration procedure in relation to a solicitor and his firm on the basis of a number of instances of fraudulent charging by the firm.

The Director of Audit and Compliance reported that in the interim the solicitor's agent had submitted further representations to the Board. The Director had agreed to meet with the agent to clarify a number of issues, and recommended that no further consideration be given to the matter until he could report back.

After discussion, it was AGREED:

- to defer consideration of the possible de-registration until the meeting of the Board on 5 February 2007.

**ACTION: IGM**

#### **16. FURTHER POSSIBLE DEREGISTRATION**

Members considered a paper recommending that the Board invoke its deregistration procedure in respect of a solicitor and his firm.

It was noted that concerns about the firm's practices had been raised by a newspaper which had shown the Board recorded video footage of clients allegedly receiving financial inducements to sign blank A&A forms.

From the evidence available, the Director of Audit and Compliance was of the opinion that the solicitor was in breach of section 3.5 of the Code of Practice for criminal legal assistance by his offering inducements to clients, and section 4.2.1 by failing to deliver a standard of professional service which could be expected of a solicitor displaying ordinary competence, in this case by disregarding the Board's guidance, endorsed by the Law Society and Scottish Solicitors' Discipline Tribunal, not to have clients sign blank application forms. Accordingly, the Director was of the view that a case had been made to invoke the de-registration procedure, and recommended to the Board that the de-registration procedure be invoked against the solicitor and his firm.

After discussion, it was AGREED:

- in accordance with the Board's procedure, the Director write to the solicitor's legal representative advising that consideration was being given to de-registration, giving the grounds for such proposed de-registration and asking for any relevant representations to be submitted within 14 days.
- consideration be given to the general issue of client vulnerability at the stage of initial contact with solicitors.

**ACTION: IGM**

The Chairman wished members an enjoyable festive break.

**DATE OF NEXT MEETING:** Monday 5 February 2007.

The meeting ended at 4.10pm.