

**THE SCOTTISH LEGAL AID BOARD
MINUTE OF MEETING OF THE SCOTTISH LEGAL AID BOARD HELD AT 1.30PM
ON MONDAY 24 JULY 2006 AT 44 DRUMSHEUGH GARDENS, EDINBURGH**

Present: Iain Robertson, Chairman
Graham Watson
David Nicol
Willie Gallagher
Margaret Scanlan

In attendance: Lindsay Montgomery, Chief Executive
Andrew Menzies, Director of Corporate Services and Accounts
Matthew Auchincloss, Director, PDSO (item 13 only)
Colin Lancaster, Head of Policy and Planning
Marie-Louise Fox, Solicitor-Legal and Policy Support
Stuart Foster, Board Administrator

1. APOLOGIES FOR ABSENCE

Paul McBride, Susan McPhee, Elaine Rosie, Ellen Morton, Graham Bell and Kenneth Ross.

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 19 JUNE 2006

The draft minute of the meeting of 19 June 2006 was approved.

4. MINUTE OF THE LEGAL SERVICES POLICY COMMITTEE HELD ON 15 MAY 2006

The minute of the Legal Services Policy Committee held on 15 May 2006 was noted.

5. DRAFT MINUTE OF THE LEGAL SERVICES POLICY COMMITTEE HELD ON 26 JUNE 2006

The draft minute of the Legal Services Policy Committee held on 26 June was noted.

6. DRAFT MINUTE OF THE AUDIT COMMITTEE HELD ON 19 JUNE 2006

The draft minute of the Audit Committee held on 19 June was noted.

The position on the lack of progress by the Law Society in dealing with section 31 referrals remained unchanged. The Chief Executive would raise the issue with the Society.

ACTION: LM

7. CHAIRMAN'S INTRODUCTION

The Chairman advised that the Board members' Strategy Away Day would be held on Sunday 8th and Monday 9th October at Murrayshall House Hotel, by Perth. Further information about the event would be issued shortly.

Ministers had offered appointments to four candidates for the new Board member vacancies, and an announcement could be expected shortly.

8. CHIEF EXECUTIVE'S UPDATE

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

The Chairman and Chief Executive had held a very constructive meeting with the Deputy Justice Minister on solemn fees for solicitors.

In relation to counsel's fees, Graham Bell had contacted the Chief Executive to express his support for the Faculty's position on civil legal aid in the Sheriff Court – he thought that it would be anomalous if counsel were paid less for working in the Sheriff Court than in the Court of Session, particularly in cases which could be heard in either court.

It was noted that much of what was recommended in Lord Carter's review of legal aid procurement in England and Wales was already the practice in Scotland.

Members noted the position.

9. SUMMARY OF JUSTICE 2 COMMITTEE'S STAGE 1 REPORT ON THE LEGAL PROFESSION AND LEGAL AID BILL

Members considered a paper outlining the key recommendations made by the Justice 2 Committee in its report on the Legal Profession and Legal Aid Bill.

The Committee's report was supportive of the issues the Board wished to take forward; in particular, the transfer of the grant of solemn legal aid to the Board, and grant funding as a mechanism for funding those who chose to take part in case by case funding.

Members noted the position.

10. UPDATE ON LEGAL PROFESSION AND LEGAL AID BILL

Members considered a paper outlining progress with the Bill and the Board's related activity over the coming period.

It was noted that the Board had been successful in securing a commitment from the Scottish Executive to virtually all of the amendments that the Board felt needed to be made to the Bill as introduced, and had managed to secure agreement to additional changes relating to summary criminal legal assistance and civil employed solicitors, as well as Executive approval for the Board's outline plans for civil employed solicitors and work on coordination and planning.

The Board would be engaging informally with stakeholders over the summer on the development of grant funding criteria and the code of practice, both of which would be brought back to the Board in September. It was hoped by that time to have clarified with the Executive their intended timescales for implementation of the various strands of work, and that work would be progressing against detailed plans to work towards agreed dates.

After discussion, members noted the position.

11. OPERATIONAL PLAN UPDATE

Members considered a paper updating the position on progress made in respect of the operational plan during the first quarter of 2006-07.

The plan showed that good progress had been made against objectives with activity scheduled for the first quarter, particularly on high priority projects, with the exception of projects relating to criminal matters. The Board had implemented a new project planning and monitoring process with the Scottish Executive, which it was hoped would assist in meeting the objectives for the coming year.

The good progress made against objectives had been achieved despite unanticipated and very resource-intensive work with the Faculty and the Law Society of Scotland. The next quarter would be very onerous in terms of development work, particularly in relation to counsel's fees, solicitors' solemn legal aid fees and the development of the new summary criminal legal aid system. In addition, a high level of development and preparation would be required prior to the commencement of Stage 2 of the Legal Aid Bill.

At the same time, legal aid online for advice and assistance would be rolled-out, together with further development of the on-line system for civil and criminal legal aid for implementation in quarter 3.

After discussion, members noted the position.

12. PERFORMANCE AND RESOURCES

Members considered a paper reporting on operational performance and resources for the period ending 31 May 2006.

It was noted that:

- Criminal, Civil and Advice & Assistance applications and Accounts Assessments had met the headline performance indicators in the year to date period;
- Civil applications performance had continued to improve since the implementation of the new computer system;
- total Grant-in-aid expenditure was £1,903k, £13k below budget;
- Legal Aid Fund Expenditure for the first two months of 2006/07 was £23.5m, and for the full year was expected to be around £140m;
- across all PDSO offices, non-duty solicitor work accounted for 71% of all new cases over the last 12 months; compared to 68% in the whole of 2005/06.

After discussion, members noted the position.

13. BUSINESS CASE FOR NEW PDSO OFFICES

Members considered a paper setting out a business case for the expansion of the Public Defence Solicitors' Office, as requested at the previous Board meeting, including a financial evaluation of the expansion proposals.

It was proposed to seek maximum value for money by reducing costs and taking advantage of economies of scale wherever possible. The expansion would require a different approach to business management and administrative support in the Edinburgh office. It was believed that

the proposed changes could be made at marginal cost by spreading the cost and benefits over the network as a whole.

The financial evaluation suggested that, on the basis of prudent estimates of costs and business levels, each new office would not only be financially viable, but would provide savings for the legal aid fund in the medium term. Combined with the indirect financial and non-financial benefits of PDSO's, their added value became even more significant.

It was therefore recommended that the Board approve the expansion of the PDSO network as set out in this and the previous paper.

In discussion, some concern was expressed at how the expected announcement by Ministers of an expanded PDSO, and its timing, could be perceived by the profession.

In terms of the proposals themselves, members considered the business case to be a strong one. The importance of quality control in achieving consistently good practice was recognised and note was made of the controls in place to do so. To facilitate market entry, it was the intention to recruit solicitors who could bring a client base with them. It was also intended that, while business levels were important, the PDSO should not be just another legal firm, but should be different, and do so by being socially useful and developing specialisms not on offer elsewhere. The openings of the new offices would be an opportunity to highlight this.

It was specifically noted that the projected savings that could be achieved by the new offices in comparison to privately provided services were very conservatively estimated, and did not evaluate all the expected benefits for the wider justice system.

Members expressed thanks to those involved for the thoroughness of the paper and the speed with which it had been prepared.

After discussion, it was AGREED:

- to approve the recommendation.

ACTION: CL

14. CONSULTATION: NATIONAL STRATEGY FOR SHARED SERVICES

Members considered a paper proposing a draft response to a Scottish Executive consultation on their proposals for a national strategy for shared services covering all parts of the Scottish public sector.

It was noted that the Scottish Executive's plans for Efficient Government highlighted shared services as one of five key work streams. The consultation document set out proposals for taking forward shared services across Scotland. It also sought to provide evidence to support the view that shared services could release significant efficiency savings for investment in front line services, and to highlight the potential for shared services to drive up service quality and consistency.

In discussion, some concerns were expressed. Other organisations that had introduced shared services had experienced problems with governance issues; and the response should reflect the Board's opposition to sharing the services of the Scottish Executive. Emphasis should be placed on the value of pilots and the danger of supplier monopolies.

It was AGREED:

- subject to incorporation of the points raised in discussion, to approve the response as proposed.

ACTION: AM

DATE OF NEXT MEETING: Monday 11 September 2006.

The meeting ended at 3.30 pm.