

**THE SCOTTISH LEGAL AID BOARD
MINUTE OF MEETING OF THE SCOTTISH LEGAL AID BOARD HELD AT 1.30PM
ON MONDAY 6 NOVEMBER 2006 AT 44 DRUMSHEUGH GARDENS, EDINBURGH**

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

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
Colin Lancaster, Head of Policy and Development
Matthew Auchincloss, Director, PDSO (items 15 and 16 only)
John McLeod, Head of Information Systems (item 10 only)
Marie-Louise Fox, Solicitor – Legal and Policy Support to the Chief Executive
Stuart Foster, Board Administrator

Introduction

The Chairman welcomed Les Campbell and Mahendra Raj to their first Board meeting.

1. APOLOGIES FOR ABSENCE

None.

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 11 SEPTEMBER 2006

The draft minute of the meeting of 11 September 2006 was approved.

4. MINUTE OF THE LEGAL SERVICES POLICY COMMITTEE HELD ON 26 SEPTEMBER 2006

The minute of the Legal Services Policy Committee held on 26 September 2006 was noted.

5. MINUTE OF THE LEGAL SERVICES CASES COMMITTEE HELD ON 26 SEPTEMBER 2006

The minute of the Legal Services Cases Committee held on 26 September 2006 was noted.

6. DRAFT MINUTE OF THE AUDIT COMMITTEE HELD ON 11 SEPTEMBER 2006

The draft minute of the Audit Committee held on 11 September 2006 was noted.

7. CHAIRMAN'S INTRODUCTION

The Chairman reported on the Legal Aid conference on 27 October, at which there had been positive discussion with solicitors on reform of criminal legal aid and good input from solicitors on the simplification of civil legal assistance.

There had been good sharing of information between the different jurisdictions at the Legal Aid Joint Consultative Committee on 22/23 October in Belfast, which showed that the different jurisdictions have common interests. The Board continued to build good relationships with the other jurisdictions.

The Board were concerned to hear of the sudden illness of Andrew Dickson of our sponsor division of the Scottish Executive, and asked that their best wishes be sent to him for his early recovery.

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: the joint legal aid conference; staff changes at the Scottish Executive sponsor division; Legal Profession and Legal Aid Bill – Stage 2 amendments; staff pay; simplification of civil legal assistance project; change of external auditors; agreement on the fraud case; announcement of expansion of public defenders network and other press coverage; and benefits checking with the Department of Work and Pensions.

It was reported that a senior member of staff would be invited to join Lord Causfield's reference group which had been set up to review the law and practice on disclosure.

After discussion, members noted the position.

9. MID-YEAR REVIEW OF LEGAL AID FUND FORECAST

Members considered a paper updating the position on the revised forecast of Legal Aid Fund expenditure for 2006/07, and the likely outturn against the 2006/07 Grant-in-Aid budget.

It was noted that Legal Aid Fund expenditure was forecast to reach around £146m.

The Fund is demand led and a key element in trying to forecast expenditure is the assumptions on business volumes. Board staff continue to work with the other criminal justice agencies to obtain relevant information on likely business volumes.

After discussion, members noted the position.

10. ICT STRATEGY

Members considered a paper in support of a draft Information and Communication Technology (ICT) Strategy.

Whilst the full paper provided details of the projects and governance structures underlying the strategy, the core elements of the previous strategy of:

- the delivery and expansion of web-based and web-delivered services
- the integration of case management from application, through approval processes, accounts payment to management of principal sums and recovery of any debt
- the streamlining of the technological base both to facilitate integration and to ensure best value in delivery of ICT services.

These were supplemented to fully embrace the Board's current vision statement and to better reflect the external environment:

- to engage with other organisations, particularly those involved in the Legal Aid process, to provide mechanisms for data sharing and opportunity for sharing services
- to develop external communications to widen access to Legal Aid in Scotland

In addition, the paper set out a vision for ICT in the Board by the end of 2009, characterised by the proliferation of web based services, and better developed data sharing between justice agencies.

After discussion, it was AGREED to approve the strategy as proposed.

ACTION: JMcL

11. OPERATIONAL PLAN

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

It was noted that the plan showed good progress had been made against objectives with activity scheduled for the second quarter, particularly on high priority projects, with the exception of projects relating to criminal matters, all projects relating to criminal matters having been delayed by the decision of the Law Society to withdraw co-operation in criminal matters.

A busy third quarter was anticipated, particularly in relation to solicitors' solemn legal aid fees, progressing the simplification of civil legal assistance project, expansion of the PDSO and setting up a network of employed civil solicitors, together with involvement in Stages 2 and 3 of the Bill.

After discussion, and subject to reconsideration of the layout of the plan, members noted the position.

ACTION: M-LF

12. TRENDS REPORT

Members considered a paper presenting trends analyses of various aspects of the Board's business for April to August 2006-2007, comparing figures with previous financial years. The report covered civil, criminal and children's legal aid – information on advice and assistance was provided at the meeting.

It was reported that there had been an 11% reduction in civil A&A applications, which was largely accounted for by a 27% reduction in reparation cases over the period.

In discussion, concern was expressed about the reduction in applications for protective orders and debt cases, which was thought to be happening because these cases were unprofitable for solicitors, with the result that people were using CABs instead.

After discussion, it was AGREED:

- to monitor the decline in protective orders and debt cases.

ACTION: CL

- otherwise, to note the position.

13. UPDATE ON THE LEGAL PROFESSION AND AID BILL

Members considered a paper outlining progress with the Legal Profession and Legal Aid Bill since the last report to the Board in September, focussing on the range of amendments that had been forthcoming since the Bill was introduced to Parliament in March.

It was reported that the Board had been successful in securing from the Executive virtually all of the amendments felt necessary to the Bill as introduced, and, additionally, agreement to further changes relating to summary criminal legal assistance and civil employed solicitors.

Members noted the position.

14. UPDATE ON THE RESEARCH PROGRAMME

Members considered a paper updating the Board on progress against the 2006-09 Research Programme for the four projects which had activities scheduled during April-October 2006.

It was noted that all of the projects with activity planned for April to October 2006 had progressed over the period. For two of these projects, progress was largely dependent on external partners (the Scottish Executive and Law Society). Progress had been slower than hoped on these projects but was now picking up. Scoping work for projects planned for the upcoming period was now underway. Emerging findings from projects would be reported to the Board and Policy Committee as appropriate, with a further update on progress on all projects provided to the Board in May 2007.

Members noted the position.

15. PDSO UPDATE

Members considered a paper outlining the current performance and operation of the Public Defence Solicitor's Office at the three current locations of Edinburgh, Glasgow and Inverness, and updating on preparations for expansion.

It was noted that the operation of PDSO over the first nine months of 2006 showed:

- the case profile of PDSO had changed - with a 14% increase in the number of non- duty cases;
- across the offices there had been a 1.2% reduction in direct costs;
- the direct costs of all three offices were 16.6% less than the estimated equivalent value of the caseload;

- there had been reduced resources available across the three offices due to covering the duty scheme in Kirkwall and solicitors maternity leave;
- PDSO Glasgow now had a caseload value that reached the break even point against direct costs;
- taking figures from the three offices over the last two years, total growth for the next year was estimated at 15%;
- work was currently being done with Board staff to develop management information and reporting.

In discussion, reference was made to the need for the PDSO to expand as a national entity..

After discussion, members noted the position.

16. JUSTICE ISSUES IDENTIFIED BY THE PDSO

Members considered a paper by the Director of the PDSO updating on the issues raised in the report to the Board meeting in December 2005, and drawing attention to other, emerging difficulties. The issues related to custody cases in Glasgow, disclosure, new European citizens and migrant workers, and summary trial delays.

It was noted that the situation at the custody court in Glasgow had not improved, the problem being that accused were not being served papers in good time for their appearance before the Sheriff, with the result that solicitors were frequently taking instructions from the accused in the dock. It is being said that the Procurator Fiscal's office was not liaising properly with the Sheriffs' office.

Disclosure was also apparently not operating as it should – there were inconsistencies in its application across the country, and instances where evidence had not been given to defence lawyers.

It appeared that there were insufficient interpreters with knowledge of the legal system in court to cater for new European citizens and migrant workers, which made the provision of A&A problematical and raised human rights issues.

After discussion, it was AGREED:

- to send a copy of the report to the Crown Agent and the Justice Department to help them address the issues raised;
- Matthew Auchincloss should contribute to Lord Coulsfield's review;

ACTION: MA

- consideration be given to addressing the lack of translators at court through the Board's pilot project for translators and interpreters.

ACTION: AM

- otherwise, to note the position.

17. POSSIBLE DE-REGISTRATION

Members considered a paper following up on the previous report submitted to the Board at its meeting on 11 September, at which members had agreed to invoke the deregistration procedure

against a solicitor and his firm on the basis of a number of findings of apparent fraudulent charging by the firm.

Further information had been received from the police and prison authorities on the robustness of their recording systems. Some of this was received on the morning of the Board meeting.

Given the late receipt of this information, it was **AGREED** that the paper should be updated to take account of this information and any further relevant information and represented to the next Board meeting.

ACTION: IGM

DATE OF NEXT MEETING: Monday 11 December 2006.

The meeting ended at 4.15 pm.