

THE SCOTTISH LEGAL AID BOARD

**MINUTE OF MEETING OF THE SCOTTISH LEGAL AID BOARD HELD AT 1.30PM
ON MONDAY 14 MARCH 2005 AT 44 DRUMSHEUGH GARDENS, EDINBURGH**

Present: Jean Couper, Chairman
David Nicol
Ian Percy
Elaine Rosie
Susan McPhee
Ellen Morton
Satnam Singh
Malcolm Thomson
Graeme McKinstry
Willie Gallagher
Kenneth Ross

In attendance: Lindsay Montgomery, Chief Executive
Andrew Menzies, Director of Corporate Services and Accounts
Ian Middleton, Director of Audit and Compliance
Tom Murray, Director of Legal Services and Applications
Colin Lancaster, Head of Policy and Planning (items 7-8 only)
Joe Kelly, Manager, Treasury (item 10 only)
Stuart Foster, Board Administrator

Introduction

The Chairman reported that the Deputy Minister for Justice had been unable to attend the meeting. He would instead attend the Board at a special meeting on 21 March. All members were invited and encouraged to attend. A revised version of the strategic review consultation paper would be issued shortly.

It was noted that Peter Gray would be heavily involved in a court case for the foreseeable future. It was unlikely he would attend many Board and Committee meetings during the case. However, he would continue to make a contribution across a range of issues, particularly in relation to the progress of quality assurance for counsel, but also ongoing monitoring and development work in the operation of criminal legal aid.

1. APOLOGIES FOR ABSENCE

Apologies were received from Peter Gray and Margaret Scanlan.

2. DECLARATIONS OF INTEREST

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

3. MINUTE OF MEETING HELD ON 7 FEBRUARY 2005

Subject to deleting "of care" from the fourth line of the second paragraph of item 11 (Strategic Review), the minute of the meeting of 7 February 2005 was approved.

4. MINUTE OF THE LEGAL SERVICES COMMITTEE HELD ON 21 FEBRUARY 2005

The minute of meeting of the Legal Services Committee held on 21 February 2005 was noted.

5. MINUTE OF THE LEGAL SERVICES SUB-COMMITTEE HELD ON 21 FEBRUARY 2005

In noting the minute of the meeting of the Legal Services Sub-Committee held on 21 February 2005, it was pointed out that reference ought to be made in the decision to the requirement for the case the subject of item 4 (Ref. CI/01/4006136) to be brought back to the Sub-Committee.

6. CHIEF EXECUTIVE'S UPDATE

Members considered a report by Lindsay Montgomery, Chief Executive, updating them on matters of interest since the previous Board meeting. It was reported that:

- the Scottish Executive was expected to issue a document on the McInnes review in the next two weeks; it was still unclear how the Executive were intending to progress the necessary reform of the summary criminal legal assistance reforms and early discussion was needed on this;
- a paper was in preparation for consideration at the Board Away Day on the successes or otherwise of the range of cost saving measures that had been introduced in civil legal aid in England;
- relations with the Law Society appeared to have settled down to a certain extent, although there were still some issues to be addressed.

Members noted the position.

7. OPERATIONAL PLAN 2005-2006

Members considered a draft of the operational plan.

It was noted that the plan was very much a draft plan at this stage because it was unclear what the Grant-in-Aid settlement would be for next year. That had a big impact on what the Board could do. Without the necessary resources, the Board would be unable to deliver the efficiency savings being sought by the Scottish Executive. A more detailed plan would be submitted to the May Board.

After discussion, it was AGREED:

- the plan should reflect and monitor the impact of the Freedom of Information Act in terms of volumes of requests and resources;
- objectives that derived from the corporate plan should be identified as such;
- specific mention be made of resource implications;
- the revised plan to show, where possible, more specific actions, dates and outputs.

ACTION: CL

8. TRENDS UPDATE

Members considered a paper by Jo Garrett, Policy Research Officer, and Alison Taylor, Policy and Compliance Analyst, concerning trends in legal aid for the first nine months of the financial year.

There was discussion about the figures for civil legal aid and special urgency, and the relatively high proportion of reviews granted. It was unclear whether the reduction in the volume of civil applications was an access to justice problem. A fuller paper on civil legal aid would be presented to the May Board.

Members noted the position.

9. GRANT-IN-AID BUDGET

Members considered a paper by Andrew Menzies, Director of Corporate Services and Accounts, updating on the current status of the budget process for the forthcoming financial year.

Provided that the required funding beyond the current historic baseline was made available, and the revenue carry-forward was confirmed, the budget for 2005/06 would enable the Board to deliver on its corporate and operational plan commitments. It was noted that the amount of carry-forward looked for this year was considerably less than last year.

Members noted the position.

10. RISK REGISTER

Members considered a paper by Joe Kelly, Manager, Treasury, updating on the current status of the Risk Registers and proposing a summary of strategic risks for annual review.

After discussion it was AGREED:

- civil reform should have an overall high risk rating for both elements of risk identified;
- for risk number three, the pre-control risk level should be split, as in the post-control changes column;
- risk number 1 should remain on the register regardless of the level of risk attributed to it;
- the pre-control risk level of risk number 7 should be increased in light of the risk to reputation introduced by the Freedom of Information Act.

ACTION: JK

11. PROPOSED DE-REGISTRATION

Members considered a paper by Ian Middleton, Director of Audit and Compliance, recommending the de-registration of a solicitor and his firm.

Results of a compliance audit, and analysis carried out by Solicitor Investigations, revealed evidence of double charging, routine overstatement of mileage and travel time, duty scheme charging irregularities, overcharging due to failure to time record, apparently excessive time charges against time and line accounts, failure to time record criminal work and apparent lack of available time in the day to conduct such work, as well as failure to employ local agents.

The procedure to be followed in the event that the Board agreed to commence de-registration, and the sanctions available if the Board decided to de-register, were outlined.

In discussion, reference was made to the unsatisfactory position that the Board only had the power to prevent a solicitor from undertaking criminal legal aid, and not civil.

After discussion, it was AGREED:

- the de-registration procedures be commenced as recommended;
- the solicitor's response be reported to the May Board meeting;
- a report be submitted to the May Board setting out the range of investigations being undertaken into firms, including those that had not yet been reported to the Audit Committee.

ACTION: IGM

12. CHAIRMAN'S REPORT

The Chairman asked members to indicate their availability to enable a date to be found for the Board Away Day.

13. DATE OF NEXT MEETING

Monday 9 May 2005.

The meeting ended at 3.40pm.