

**THE SCOTTISH LEGAL AID BOARD**  
**MINUTE OF MEETING OF THE SCOTTISH LEGAL AID BOARD HELD AT 1.30PM**  
**ON MONDAY 8 DECEMBER 2008 AT 44 DRUMSHEUGH GARDENS, EDINBURGH**

Present: Iain Robertson, Chairman  
Ellen Morton  
Graham Watson  
David Nicol  
Graham Bell  
Kenneth Ross  
Susan McPhee  
Les Campbell  
Joseph Hughes

In attendance: Lindsay Montgomery, Chief Executive  
Andrew Menzies, Director of Corporate Services and Accounts  
Colin Lancaster, Head of Policy and Development  
Ian Middleton, Director of Audit and Compliance  
Raphael Bleakley, Equalities Officer (item 13 only)  
Gemma Craik, Policy Assistant, Policy and Development (item 11 only)  
Clare Duffy, Assistant Manager, Policy (items 11 and 13 only)  
Hazel Thoms, Manager, Policy (items 11 and 14 only)  
Marie-Louise Fox, Legal and Policy Support to the Chief Executive  
Stuart Foster, Board Administrator

**1. APOLOGIES FOR ABSENCE**

Paul McBride, Elaine Rosie, Denise Loney.

**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 27 OCTOBER 2008**

The draft minute of the meeting of 27 October 2008 was approved.

**4. DRAFT MINUTE OF THE LEGAL SERVICES POLICY COMMITTEE HELD ON 20 OCTOBER 2008**

The draft minute of the Legal Services Policy Committee held on 20 October 2008 was noted.

**5. DRAFT MINUTE OF THE LEGAL SERVICES CASES COMMITTEE HELD ON 17 NOVEMBER 2008**

The draft minute of the Legal Services Cases Committee held on 17 November 2008 was noted.

**6. CHAIRMAN'S INTRODUCTION**

The Chairman reported on the publication of the Annual Report. In January, he and the Chief Executive would meet with the Chief Executive of the Criminal Injuries Compensation Authority. He invited members to attend an informal end-of-year reception for staff.

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

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

The Chief Executive would raise concerns about the adequacy of resource at the Scottish Government to deliver the regulatory programme. In response to the economic downturn, the Board was reviewing processes to ensure prompt payment of invoices. Consideration was also being given to whether there was scope for the Board to take on any of the trainees whose traineeships had been terminated by their employing firms as a result of the economic downturn. Work on aligning the Board's objectives with those of the Scottish Government was continuing as part of the development of the next corporate plan.

Members noted the position.

## **8. PERFORMANCE AND RESOURCES REPORT**

Members considered a paper updating on operational performance and resources for the period from 1 September to 31 October 2008.

Key messages:

- Children's, A&A and Civil Applications and Accounts Assessment had all met the headline performance indicators for the year to date.
- The year to date performance for Criminal Applications was slightly below the target headline performance indicator as a result of the implementation of a new computer system in April, and the summary criminal reforms in June, both of which impacted on timeliness performance.
- Total Grant-in-Aid expenditure YTD for 2008/09 was £7.7m compared to a budget of £7.7m.
- Legal Aid Fund cash spend was £86.7m compared to an estimated £87.7m.

Members noted the position.

## **9. TAPERING OF ELIGIBILITY FOR CIVIL LEGAL AID**

Members considered a paper about the Cabinet Secretary's recent announcement of the introduction of extended and tapered eligibility for civil legal aid, and the steps to be taken by the Board and others to implement the proposals.

The Board had been pressing for several years for the introduction of an extended and tapered system of eligibility for civil legal aid. The Cabinet Secretary for Justice had announced on 7 November that the upper eligibility limit for civil legal aid would be lifted to £25,000 from April 2009, alongside the introduction of a tapered system of contributions. The paper set out the regulatory and other issues involved in implementing the changes in that timescale.

In discussion, reference was made to the importance that would attach to communicating the changes effectively to staff, the profession, the public, the advice sector and the judiciary. A progress report would be made to the February Board meeting.

Members noted the position.

## **10. TRENDS ANALYSIS**

Members considered a paper summarising legal aid trends for the 12 month period from October 2007 to September 2008 inclusive.

It was noted in particular that the Board was seeing a noticeable increase in civil legal aid applications.

After discussion, it was AGREED:

- where possible, that future reports indicate the significance of the implications of identified trends;
- information be provided on the numbers of A&A applications that did not progress to accounts.

**ACTION: CL**

## **11. TRAINING AND DEVELOPMENT**

Members considered a paper outlining a proposed strategy for the “Training and Development for the Profession” Programme for the financial year 2009-10.

It was noted that the programme adopted a broad approach to training for the profession, including those involved in direct delivery of legal aid and those key partners involved in enabling access to legal aid.

In discussion, it was suggested that interest in doing legal aid work could be stimulated at recruitment fairs by providing examples of some high profile cases funded by legal aid.

After discussion, it was AGREED to approve the strategic priorities proposed.

**ACTION: GC**

## **12. SUMMARY CRIMINAL REFORM UPDATE**

Members considered a paper about the impact of the reforms to summary criminal legal assistance in the five months following their implementation on 30 June 2008.

The summary justice reforms were now settling down although there appeared to be significant differences in how the reforms were operating across the country. These included directed measures, availability of fiscals etc. The Scottish Government were reviewing currently the assumptions on business volumes which had been used to model the legal aid changes.

The legal aid changes appeared to be operating as intended and the justice system has seen an increase in guilty pleas since the reforms were introduced. However, it was still very early in the life of the reformed system to draw too many firm conclusions. Board staff continued to monitor the position closely.

After discussion, it was AGREED:

- detail of the revised costings based on the actual receipts of advice and assistance, ABWOR and summary criminal applications in the five month period since the reforms were implemented be provided to the Legal Services Policy Committee.

**ACTION: TCM**

### **13. SINGLE EQUALITY SCHEME**

Members considered a paper on the development of the Board's Single Equality Scheme 2008-2011, together with a copy of the scheme document.

It was noted that a Single Equality Scheme had been developed for the Board, covering the period 2008-11. The Single Equality Scheme covered the strands of Race, Disability and Gender, which allowed for a co-ordinated approach to the equality duties by linking common themes of action. The document presented a strategic equalities policy for the Board and fulfilled the statutory obligation for the Board to publish its planned actions on Race Equality. The scheme would be published on the Board's website.

In discussion it was agreed that the scheme should make more mention of the equalities training provided by the Board.

Members noted the publication of the scheme.

### **14. ACCESS TO ADVICE AND REPRESENTATION: RESPONSE TO ECONOMIC DOWNTURN**

Members considered a paper concerning the programme of work that the Board had been asked to take forward on behalf of the Scottish Government. The paper set out the information that had been made available to the Board to date, expected timescales for the programme of work, and recommendations on immediate steps to be taken.

It was noted that formal confirmation of the programme of work and funding was awaited but was expected to include expansion and enhancement nationally of existing In-Court Advice Projects and improved access to solicitors for legal matters linked to the economic downturn. It was recommended that a small number of Part V solicitors should be recruited as a means of taking immediate action to get solicitors on the ground and able to assist individuals as soon as possible, given Ministers' wish for early action. The announcement provided an opportunity for the Board to plug gaps in supply, and to enhance solicitor provision in areas where there was insufficient private sector involvement.

After discussion, it was AGREED:

- to approve the approach proposed for taking forward this work on behalf of the Scottish Government.

**ACTION: HT**

**DATE OF NEXT MEETING:** Monday 9 February 2009

The meeting ended at 3.55pm.