

THE SCOTTISH LEGAL AID BOARD
MINUTE OF MEETING OF THE SCOTTISH LEGAL AID BOARD HELD AT 1.30PM
ON MONDAY 1 SEPTEMBER 2008 AT 44 DRUMSHEUGH GARDENS, EDINBURGH

Present: Iain Robertson, Chairman
Paul McBride
David Nicol
Graham Bell
Kenneth Ross
Denise Loney
Les Campbell
Joseph Hughes
Susan McPhee
Elaine Rosie
Graham Watson

In attendance: Lindsay Montgomery, Chief Executive
Andrew Menzies, Director of Corporate Services and Accounts
Ian Middleton, Director of Audit and Compliance
Colin Lancaster, Head of Policy and Development
Matthew Auchincloss, Director, PDSO (item 11 only)
Hazel Thoms, Manager, Policy and Development (items 10 and 12 only)
Gemma Craik, Policy Assistant, Policy and Development (item 12 only)
Ian Dickson, Head of Service – Civil Legal Offices (item 10 only)
Stuart Foster, Board Administrator

1. APOLOGIES FOR ABSENCE

Ellen Morton.

2. DECLARATIONS OF INTEREST

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

Paul McBride and Graham Bell declared non-financial interests in relation to item 9 of the draft minute of the meeting of the Legal Services Cases Committee held on 28 July 2008. The nature of their interests was such that they deemed it unnecessary to withdraw from the meeting.

3. DRAFT MINUTE OF MEETING HELD ON 21 JULY 2008

The draft minute of the meeting of 21 July 2008 was approved.

4. DRAFT MINUTE OF THE LEGAL SERVICES POLICY COMMITTEE HELD ON 28 JULY 2008

The draft minute of the Legal Services Policy Committee held on 28 July 2008 was noted.

5. DRAFT MINUTE OF THE LEGAL SERVICES CASES COMMITTEE HELD ON 28 JULY 2008

The draft minute of the Legal Services Cases Committee held on 28 July 2008 was noted.

6. MINUTE OF MEETING OF THE AUDIT COMMITTEE HELD ON 21 JULY 2008

The minute of meeting of the Audit Committee held on 21 July was noted.

7. QUARTERLY ACTION POINTS

Noted. In future, progress with the implementation of all decisions would be included in the report.

8. CHAIRMAN'S INTRODUCTION

The Chairman reported that he had been appointed to the interview panel for the Chair of the Scottish Police Services Authority.

He had received feedback that the Scottish Government was very satisfied with the way the Board was operating. Particular mention was made of the quality of support given to Ministers, and the successful implementation of summary criminal reform.

9. 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: grant funding; pay remit; legal aid online; annual report; annual accounts; Board strategy day; a Section 31 decision; review of plans following the implementation of summary criminal legal reform; staff changes; and office accommodation.

Members noted the position.

10. CIVIL LEGAL ASSISTANCE OFFICE – HIGHLAND & ISLANDS

Members considered a paper reporting on the first six months of operations of the Civil Legal Assistance Office in Inverness.

The first six months of operational activity had confirmed views that the existing pattern of civil legal assistance provision in the Highlands and islands was complex, and there was unmet need in relation to civil legal assistance services across the service area in most forms of work. This meant that for the future it was expected that the solicitors would need to continue the broad range of coverage both in terms of geography and of topics.

Relationships with the local Bars were very good, with private solicitors supportive of the new service. The advice sector and local authorities were also very supportive.

There had been significant demand for all aspects of the service, to the extent that the point had been reached where a choice had to be made either to restrict the remit of the service or to seek additional resources. Accordingly, it was proposed to report back to Ministers regarding the success of the office in its first 6 months, giving information about the demands that were being placed on the service, and seeking approval for expenditure from the Fund to recruit an additional solicitor.

After discussion, it was AGREED:

- to note the successful launch and operation of the Service during its first six months;

- to approve the proposed plans for managing demand by approaching the Scottish Government regarding the need for additional resources;
- that consideration be given to finding ways to identify trends in client profiles and the nature of their problems.

ACTION: ID

11. PDSO UPDATE

Members considered a paper providing information on the performance and operation of the Public Defence Solicitors' Office in the year 2007/08 with specific reference to the offices that opened in April 2007. The paper went on to consider the operation of all of the offices in the first quarter of 2008/09 with reference to summary justice reform, and considered the possible opportunities that the Public Defence Solicitors' Office had to further improve its cost-effectiveness. The paper concluded that the PDSO had clearly demonstrated its feasibility, and offered good value both directly in savings to the legal aid fund on the work the offices carried out, and in terms of added value.

The changes to the summary justice and summary criminal legal assistance systems would impact on PDSO as they impacted on other solicitors. However, the new payment regime would better reward the approach PDSO had always taken to casework. Nevertheless, it was necessary to ensure that PDSO not only remained cost-effective but built its caseload to maximise the return on investment in it. The greater the value of cases undertaken by the PDSO, the greater the saving to the taxpayer.

In discussion, it was noted that separate analyses of the legal aid costs of criminal defence provision in Dumfriesshire had arrived at the same conclusion: if the same service was provided by the PDSO, savings of 25% or more could be achieved. While it was not the Board's position that PDSO should replace private practice either nationally or in any specific locations, the view was expressed that if that figure was obtainable nationally, it was information that should be made available to the Scottish Government. The Board supported the proposals to further optimise the cost effectiveness of the PDSO.

It was AGREED:

- the information on the cost-effectiveness of PDSO, including the analysis of Dumfriesshire, be passed on to the Scottish Government;
- the PDSO should have increased use of the duty scheme to increase and optimise the benefit to the taxpayer, and undertake children's referral cases where the grounds of referral related to criminal behaviour in the same way as private solicitors doing criminal work;
- private charging or pro bono work required further consideration.

ACTION: MA/CL

12. TRAINING AND DEVELOPMENT STRATEGY

Members considered a paper outlining the proposed approach for developing a strategy for legal aid training and development for the profession.

It was envisaged that the Board's training activity would fall within four broad aims: sustaining and encouraging supply; improving operational and technical understanding; supporting the profession through periods of change; and improving quality. It was intended that a training and

development strategy be developed and reviewed annually at the start of each financial year. A further report would be made in December.

After discussion, it was AGREED:

- to approve the proposed approach;
- training for legal aid online be incorporated into the strategy;
- consideration be given to holding events such as “open” days.

ACTION: GC

13. POSSIBLE DE-REGISTRATION

Members considered a paper recommending that the Board invoke its de-registration procedure in respect of two solicitor from the same firm.

After discussion, it was AGREED:

- to invoke the de-registration procedure against both solicitors, and note that the question of the firm’s de-registration remained open while police investigations continued.

ACTION: IGM

Members thanked Ian Middleton and Tom Murray for all the work carried out on the investigations.

14. SUMMARY CRIMINAL REFORM UPDATE

Members considered a paper reporting on the first month’s operation of the summary criminal legal assistance reforms.

Indications were that the vast majority of solicitors had generally coped well with the significant changes and the new forms. Vouching remained an issue and further guidance would be issued. Shifts in business were being noticed: grants of ABWOR were increasing, with a corresponding reduction in applications for summary criminal legal aid. There was also an indication that the incidence of guilty pleas at the first diet was increasing. The operation of the reforms would be monitored in the run up to the meeting in December with the Cabinet Secretary.

Members noted the position.

15. PERFORMANCE AND RESOURCES REPORT

Members considered a paper updating on operational performance and resources for the period from 1 June to 30 June 2008.

It was noted in particular that:

- 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 for the year to date as a result of the implementation of a new computer system in April. It was anticipated that performance would improve over time as had been seen in previous years with other new system implementations.
- Total Grant-in-Aid expenditure YTD for 2007/08 was £3.1m compared to a budget of £3.3m.

- Legal Aid Fund cash spend was £37.5m compared to a profiled £39.3
- Although the performance for invoice payment YTD was still below target, June's turnaround time showed an improvement on May's figures.
- The Board's pay remit for 2008/09 to 2010/11 had been approved by the Scottish Government on 22 July. Following negotiations with the Board's Trade Union the pay offer was accepted and implemented in August.

Members noted the position.

16. PROPOSED AMENDMENTS TO STANDING ORDERS

Members considered a paper proposing changes to the Standing Orders to reflect: (a) guidance issued by the Standards Commission for Scotland in relation to members' declarations of interest; and (b) the terms of reference for the Audit Committee approved by the Board on 21 July 2008.

In discussion, it was noted that the Code of Conduct for members would be reviewed as part of the forthcoming review of corporate governance.

It was AGREED to approve the proposed amendments to Standing Orders.

ACTION: SF

DATE OF NEXT MEETING: Monday 27 October 2008

The meeting ended at 3.40pm.