

THE SCOTTISH LEGAL AID BOARD
MINUTE OF MEETING OF THE SCOTTISH LEGAL AID BOARD HELD AT 1.30PM
ON MONDAY 11 MAY 2009 AT 44 DRUMSHEUGH GARDENS, EDINBURGH

Present: Iain Robertson, Chairman
Ellen Morton
Graham Watson
David Nicol
Graham Bell
Elaine Rosie
Denise Loney
Kenneth Ross (items 12-16 only)
Les Campbell

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
Tom Murray, Director of Legal Services and Applications
Joe Kelly, Head of Civil Legal Assistance (items 11 and 12 only)
Hazel Thoms, Project Manager, Policy and Development (item 13 only)
Susan King, Research Officer, Policy and Development (item 14 only)
Graeme Hill, Project Manager (item 15 only)
Diane Ireland, Legal Aid Online Project Manager, (item 15 only)
Marie-Louise Fox, Legal and Policy Support to the Chief Executive
Stuart Foster, Board Administrator

1. APOLOGIES FOR ABSENCE

Paul McBride, Joseph Hughes, Susan McPhee.

2. DECLARATIONS OF INTEREST

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

Elaine Rosie declared a non-financial interest in relation to item 13 (response to economic downturn) and Graham Bell declared a financial interest in relation to item 8 of the minute of meeting of the Legal Services Cases Committee held on 30 March 2009.

In discussion, reference was made to the need for conveners of committees to be aware that when a member had declared a financial interest and was not present during discussion of that item, the minute should not provide information about the application that could be seen to be advantageous to that, or any other, member's declared interest.

ACTION: DN/KR

3. DRAFT MINUTE OF MEETING HELD ON 16 MARCH 2009

The draft minute of the meeting of 16 March 2009 was approved.

4. MINUTE OF THE LEGAL SERVICES POLICY COMMITTEE HELD ON 30 MARCH 2009

The minute of the Legal Services Policy Committee held on 30 March 2009 was noted.

5. MINUTE OF THE LEGAL SERVICES CASES COMMITTEE HELD ON 30 MARCH 2009

The minute of the Legal Services Cases Committee held on 30 March 2009 was noted.

6. MINUTE OF THE AUDIT COMMITTEE HELD ON 16 MARCH 2009

The minute of the Audit Committee held on 16 March 2009 was noted.

7. CHAIRMAN'S INTRODUCTION

The Chairman advised that Board members' appraisals were nearing completion.

8. 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 additionally reported that regulations would finally give effect to the civil fees increase for solicitors on 18 June. However, no regulations were yet in place in relation to counsels' fees in appeal cases or the previously agreed solemn fees for solicitors.

Members expressed concern at the considerable delay by the Scottish Government in implementing these matters.

9. PERFORMANCE AND RESOURCES REPORT

Members considered a paper that provided an update on operational performance and resources for the period from 1 January to 31 March 2009.

It was noted that:

- all headline performance indicators had been met or exceeded for the year.
- total Grant-in-Aid expenditure YTD for 2008/09 was £13.5m - compared to a budget of £13.6m.
- Legal Aid Fund cash spend for the year was £149.3m - in line with expectations - with the amount drawn down from the Scottish Government being £147.1m as anticipated.

Subject to inserting 'comparator' in the wording relating to levels of staff pay, members noted the report.

ACTION: AM

10. BEST VALUE

Members considered a paper that updated on progress with Best Value and set out proposed actions for the coming year.

It was noted that a paper on Efficient Government would be submitted to the next meeting of the Board.

After discussion, it was AGREED:

- to welcome the progress to date and approve the focus for actions in the year ahead;
- wording such as “under development” be re-considered in light of the fact that Best Value was a process rather than a goal;
- more emphasis be placed on the benefits of legal aid online;
- the Board’s approach would not be restricted to the priority development areas selected by Audit Scotland;
- a further report be submitted once the Audit Scotland “toolkits” had been issued.

ACTION: AM

11. RISK MANAGEMENT UPDATE AND ANNUAL REVIEW

Members considered a paper reporting on risk management activity during 2008/09 and summarising strategic risks for annual review.

It was noted that officials had commenced a review of the risk management process, and this would involve reference to HM Treasury guidance on risk, including risk appetite. An initial report would be made to the Audit Committee in July.

Subject to amending the wording of the paper to more accurately reflect actions taken to mitigate the risk of fraud, members noted the position.

ACTION: JK

12. PROPOSED SEQUESTRATION

Members considered a paper that set out the background to a debt recovery case and sought approval to commence sequestration proceedings.

It was AGREED:

- to approve the commencement of sequestration proceedings as recommended.

ACTION: JK

13. UPDATE ON RESPONSE TO ECONOMIC DOWNTURN

Members considered a paper reporting on progress with implementation of the Board’s programme of work in response to the economic downturn.

Members noted that significant progress had been made in taking forward the Board’s programme of work in response to the economic downturn, particularly the successful transfer of the funding for the In Court Advice Projects, progress with establishment of additional Part V solicitor service delivery, and the opening of the Board’s first grant funding programme.

After discussion, it was AGREED:

- to approve the process set out for the assessment and agreement of the grant funding programme, particularly that the proposed programmes be remitted to the LSPC in July and September to enable work to proceed within required timescales, with the 27 July meeting of the LSPC to be open to all Board members to attend.

ACTION: HT/CL

14. UPDATE ON ACTIONS ARISING FROM EMPLOYEE OPINION SURVEY

Members considered a paper updating the position on progress with actions arising from the 2007 Employee Opinion Survey.

It was noted that good progress was being made against the Employee Opinion Survey action plan, which had incorporated actions arising from the Investors in People review. The combined action plan would continue to be monitored and updated by the Research Team on a quarterly basis, and staff kept informed of progress.

In discussion, reference was made to the operation of Team Briefing, and the need for staff to feel confident that any concerns raised in the survey had either been addressed, or reasons given where it had not been possible to do so.

Members noted the position.

15. ONLINE STRATEGY

Members considered a paper and heard a presentation on progress with the Legal aid Online project and the online strategy designed to support achievement of the corporate objective of virtually all interactions with solicitors, in relation to legal aid applications, being online by the end of 2010/11.

Following the introduction of civil and criminal online later this year the Board would commence a communication and support campaign with the profession to prepare for the paper switch off in March 2010. During this period the Board would ensure that the correct level of customer service was provided to allow the profession full opportunity to go online.

In discussion, the view was expressed that, provided that firms did not have technical reasons for non-compliance, the Board needed to be resolute about switching off paper. It was also important to keep abreast of the Crown Office's online initiatives.

Members noted the position and the substantial progress which had been made.

16. POSSIBLE DE-REGISTRATION

Members considered a paper recommending that the Board invoke its de-registration procedure in respect of a solicitor and the firm of which he is principal.

It was noted that the solicitor concerned had acted in a way that the Law Society had found to be a serious and reprehensible departure from the standard to be expected of a competent and reputable solicitor, and it was contended that such a finding by the solicitor's professional body

amounted to a fundamental contravention of the Board's Code of Practice for criminal legal assistance.

After discussion, it was AGREED to invoke the de-registration procedure as recommended.

ACTION: IGM

DATE OF NEXT MEETING: Monday 15 June 2009

The meeting ended at 3.40pm.