

THE SCOTTISH LEGAL AID BOARD
MINUTE OF MEETING OF THE SCOTTISH LEGAL AID BOARD HELD AT 1.30PM
ON MONDAY 10 MAY 2010 AT 44 DRUMSHEUGH GARDENS, EDINBURGH

Present: Iain Robertson, Chairman
Graham Watson
Ray MacFarlane
Elaine Rosie
Susan McPhee
Joseph Hughes
William McQueen
Denise Loney
Alastair Kinroy QC
Sheriff Ray Small
Les Campbell

In attendance: Lindsay Montgomery, Chief Executive
Andrew Menzies, Director of Corporate Services and Accounts
Colin Lancaster, Head of Policy and Development
Tom Murray, Director of Legal Services and Applications
Ian Middleton, Director of Audit and Compliance
Kingsley Thomas, Manager, Criminal Legal Assistance (item 8 only)
Stuart Drummond (item 12 only)
Joe Kelly, Head of Civil Legal Assistance (item 11 only)
Marie-Louise Fox, Head of Secretariat and Chief Executive's Office
Andrew McIntosh, Corporate Support Manager
Stuart Foster, Board Administrator

1. APOLOGIES FOR ABSENCE

Paul McBride QC.

2. DECLARATIONS OF INTEREST

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

Susan McPhee declared a non-financial interest, and did not leave the meeting, in relation to item 14 (Proposed De-registration) in that she had previously worked for a legal firm which had employed one of the solicitors in question.

3. DRAFT MINUTE OF MEETING HELD ON 15 MARCH 2010

The draft minute of the meeting held on 15 March was approved.

4. MINUTE OF THE LEGAL SERVICES POLICY COMMITTEE HELD ON 29 MARCH 2010

The minute (not the draft minute as stated on the agenda) of the Legal Services Policy Committee held on 29 March 2010 was noted.

5. MINUTE OF THE LEGAL SERVICES CASES COMMITTEE HELD ON 29 MARCH 2010

The minute (not the draft minute as stated on the agenda) of the Legal Services Cases Committee held on 29 March 2010 was noted.

6. CHAIRMAN'S INTRODUCTION

The Chairman reported that the membership of committees had been circulated.

7. CHIEF EXECUTIVE'S UPDATE

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

It was also reported that members would be given training on the revised civil legal aid reasonableness test.

Members noted the position.

8. REVIEW AND MONITORING OF THE REFORMS OF CRIMINAL LEGAL ASSISTANCE

Members considered a paper which provided an update on the review and monitoring of the summary criminal legal assistance reforms.

It was reported that the new criminal legal assistance system was now settling down, and appeared to be having the desired effect in that there were fewer changes of plea and more cases now concluding at pleading diets. Guilty plea rates for all cases at first calling had risen by around 13%. This had led to a reduction in the volumes of summary criminal legal aid applications and an associated increase in grants of ABWOR.

The Board had developed a costing model of the new system of summary criminal legal assistance and members were informed that the assumptions used in the modelling had been revised. The revised costing model was now showing increased savings to the cost of legal aid than the original estimate.

The Board had already identified a number of changes to make the system work even more effectively and had brought this to the attention of the Scottish Government, and would continue to work with justice sector partners to monitor the new system and identify any further changes which might be needed.

Members noted the position.

9. PERFORMANCE AND RESOURCES REPORT

Members considered a paper which provided an update on operational performance and resources for the period from 1 January to 31 March 2010 and for the whole of 2009-10.

It was reported that:

- Civil, Children and A&A applications and all accounts types have all met or exceeded the headline performance indicator for the year to date. Indications are that criminal applications will also meet the overall target.
- Invoice payments met the 30-day payment target; and performance against the government's aspiration of 10 days grew from 64% at the end of May 2009 to 97% in April 2010, giving a result for the year of 89%.
- Total Grant-in-Aid expenditure YTD for 2009/10 was £13.3m for the year compared to the budget of £13.6m.
- Legal Aid Fund cash spend was £150.4m, within the Government's available budget.

Members noted the position and that stricter performance targets had been set for Online processing for 2010-11.

10. OPERATIONAL PLAN 2009-10

Members considered a paper updating on overall progress made in respect of the Operational Plan for 2009-2010.

It was reported that the Board had delivered a significant amount of key projects in 2010-11 against the backdrop of an unprecedented increase in workload and pressure on budgets. Projects that had not made the progress first envisaged had been delayed by a reliance on a number of regulatory changes and were outside the Board's control.

Members were impressed by the scale of the Board's achievement over the year given the large increase in civil business and flat lined grant-in-aid budget, and commended staff for their efforts.

11. RISK MANAGEMENT UPDATE AND ANNUAL REVIEW

Members considered a paper reporting on risk management activity during 2009/10 and summarising strategic risks for annual review.

It was noted that the register had been considered by the Audit Committee earlier in the day where it had been agreed that pressures on public expenditure should be categorised as a risk in its own right, and the wording of Risk No. 6 should be amended to reflect that; and, in relation to relations with the advice sector, reference should be made to the risk of grant funding to bodies over which the Board had no control, whilst acknowledging this was mitigated by the controls in place (e.g. contracts).

Members noted the position.

12. TRAINING AND DEVELOPMENT FOR LEGAL AID SOLICITORS

Members considered a paper which set out a revised strategy for the training and development of legal aid solicitors, updated the Board on the status of the existing strands of work in this area and made recommendations for further action to help deliver the Board's strategic objectives.

In discussion, members supported the proposals to look at possible Board involvement in traineeships and looked forward to receiving the planned paper which would set out options and costs. The strategy should bring together all the strands of work across the Board on the profession's understanding of legal aid issues (including consideration of competency tests for new firms wishing to join the legal aid register).

Members approved the revised strategy and actions for implementation, noting that a further report would be submitted to the July Board meeting.

13. DRAFT COMMUNICATIONS STRATEGY 2010-11

Members considered a paper and draft Communications Strategy which set out a framework for the Board's communications in 2010-11 – the remainder of the corporate planning period.

Board members welcomed the report. It was noted that the strategy was an ambitious one and that each stakeholder need only have two or three key messages assigned to it. In discussion, it was noted that there were too often negative stories concerning undeserving people receiving legal aid and that it was important that the Board was proactive in promoting the importance of legal aid in society. It was also felt that more could be done to promote to the Scottish public the wider role of the Board – its role was not simply to pay solicitors – in relation to access to justice. The importance of the advice sector as a partner was noted and that the Board's role should be effectively marketed to them. It was also suggested that engagement with Sheriffs and the Judiciary should be through their training division, and that engagement with MSPs could include constituency profiles on legal aid issues – they had found such information in other areas particularly useful in the past. There would also need to be evaluation of the effectiveness of the strategy.

After discussion, it was AGREED:

- to adopt the proposed Communications Strategy 2010-11, noting that an update would be given in six months time.

ACTION: M-LF

14. PROPOSED DE-REGISTRATION

Members considered a paper recommending that the Board remove the name of a solicitor from, and prevent the name of a second solicitor being entered on, the Criminal Legal Assistance Register.

It was noted that the reference in the paper at page 9, paragraph 7.3.3, to the firm's letterhead should be disregarded.

Discussion took place regarding the second solicitor's status in relation to the register and de-registration, given that the second solicitor's name was not actually on the register because the second solicitor was not currently connected to a registered criminal firm.

After discussion, it was AGREED:

- to remove the name of the first solicitor from the Criminal Legal Assistance Register as recommended;
- a form of words be produced to the effect that the second solicitor be de-registered with immediate effect whilst making it clear that although the solicitor was not currently on the register because the solicitor had no link to a firm, the solicitor was being de-registered on the same basis as the first solicitor;

- in accordance with the first solicitor's request, the solicitor be given sight of the de-registration recommendations that related to the solicitor and, with the permission of the second solicitor, the information about the first solicitor supplied by the second solicitor.

ACTION: IGM /TCM

DATE OF NEXT MEETING: Monday 14 June 2010.

The meeting ended at 3.45 p.m.