

**THE SCOTTISH LEGAL AID BOARD**  
**MINUTE OF MEETING OF THE SCOTTISH LEGAL AID BOARD HELD AT 1.30 PM**  
**ON MONDAY 4 JULY 2011 AT 44 DRUMSHEUGH GARDENS, EDINBURGH**

Present: Iain Robertson, Chairman  
Ray MacFarlane  
Denise Loney  
Les Campbell  
William McQueen  
Susan McPhee  
Graham Watson  
Joseph Hughes  
Paul McBride QC

In attendance: Lindsay Montgomery, Chief Executive  
Colin Lancaster, Director of Policy and Development  
Andrew Menzies, Director of Corporate Services and Accounts  
Tom Murray, Director of Legal Services and Applications  
Ian Dickson, Head of Service CLAO (item 12 only – by video-link)  
Catriona Whyte, Head of Legal Services – Civil (item 11 only)  
Marie-Louise Fox, Head of Chief Executive’s Office and Communications  
Department  
Stuart Foster, Board Administrator

**1. APOLOGIES FOR ABSENCE**

Alastair Kinroy QC, Sheriff Ray Small, Elaine Rosie.

**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 9 MAY 2011**

The draft minute of the meeting held on 9 May 2011 was approved.

**4. DRAFT MINUTE OF THE LEGAL SERVICES POLICY COMMITTEE HELD ON 23 MAY 2011**

The draft minute of the Legal Services Policy Committee held on 23 May 2011 was noted.

**5. DRAFT MINUTE OF THE LEGAL SERVICES CASES COMMITTEE HELD ON 23 MAY 2011**

The draft minute of the Legal Services Cases Committee held on 23 May 2011 was noted.

**6. CHAIRMAN’S INTRODUCTION**

Matters to report were all covered by the agenda..

**7. CHIEF EXECUTIVE’S UPDATE**

Members considered and noted a report by the Chief Executive updating them on matters of interest since the previous Board meeting.

There was discussion about the likely impact of the Scottish Government's spending review and how this may impact on relationships with key stakeholders if the savings required further significant savings to be made in legal aid.

## **8. OPERATIONAL PLAN UPDATE**

Members considered a paper reporting on the first quarter progress made in respect of the Operational Plan for 2011-12.

Good early progress had been made on this year's Operational Plan, particularly in respect of a number of high priority projects, while managing heavy workloads and performance in key operational areas. The priority in the next quarter would be the development of savings plans in preparation for the likely budgetary challenges in 2012/13 and beyond.

Members noted the position.

## **9. MAKING JUSTICE WORK UPDATE**

Members considered a paper reporting on the work of the Scottish Government's Making Justice Work Programme and the Board's involvement in specific projects.

It was noted that this programme of work represented a major development in the way the justice system operated and was managed in Scotland which built on the success of the summary justice and other recent reforms. The Board continued to play a key role in the programme and was the lead organisation on some projects. The programme was now advancing well in most areas. The programme as a whole had the potential to deliver significant improvements for the justice system and for legal aid.

With the majority of projects underway, the Board would prioritise ensuring that the interests of legal aid and access to justice were adequately taken into account in all relevant projects to ensure that the benefits and efficiency savings were maximised. Members would be regularly updated on progress.

Members noted the position.

## **10. POLICE STATION DUTY PLAN UPDATE**

Members considered a paper which provided an update on the Police Station Duty Plan Scheme, the setting up of the Solicitor Contact Line and the chronology of events leading up to and affecting the manner in which the scheme had been implemented by the required date on 4 July.

It was noted with disappointment and concern that the Law Society had changed their position on the scheme very late in the day to one of robust opposition. This was in spite of the very positive negotiations which took place between the Society and the Board on the scheme, and the fact that virtually all of the points raised by the Society had been taken on board. The Society had also indicated to the Cadder Senior Working Group its general contentment with the structure of the scheme. The Society also indicated to the Board it was content to publish the scheme to see the response it generated. The Society had not given the Board or the Scottish Government notice of its changed position before issuing a very negative press release.

The Society's letter communicating their reasons for this to the profession contained a considerable number of significant inaccuracies, to the extent that it misrepresented the true position in a number of significant respects.

The Cabinet Secretary had given his full support to the Board in taking forward the regulatory duty to provide legal advice to suspects detained at police stations, recognising that the fewer registered criminal solicitors who chose to participate in the scheme, the more the Board would have to make use of the PDSO and employed solicitors to deliver it. The interim scheme was in place and would run for three months, operated through the Board's Solicitor Contact Line, and would be monitored on a monthly basis.

In discussion, disappointment and concern was expressed at the approach taken by the Law Society and some factions of registered criminal practitioners and the potential impact on the scheme and the justice system. Nevertheless, the Board remained willing to engage with the Law Society to discuss and develop the operation of the scheme.

Members noted the position.

## **11. BEST VALUE REVIEW OF CIVIL CASE COSTS**

Members considered a paper which provided an overview of the best value review of costs incurred in civil legal assistance.

It was noted that since 2008 there had been a substantial increase in the volume of civil legal aid applications, and a best value review had been established to examine civil legal assistance expenditure. The review had already identified a number of areas where savings could be made without harming access to justice for appropriate cases, and the paper summarised work done on special urgency, stage reporting, high cost cases, financial assessments and multiple parties legally aided, and future work to be undertaken.

Members noted and endorsed the work being undertaken for the review.

## **12. PART V PROGRAMME**

Members considered a paper reporting on the operation of the Civil Legal Assistance Offices and forward planning for the next six month period.

It was noted that the paper contained a computational error in the total for active cases. There continued to be heavy demand for assistance from the CLAO Network. Key next steps included consideration of the findings from research being carried out on outcomes for clients, and also to establish improved mechanisms for demonstrating how Best Value was achieved from use of CLAO in delivery of and enabling access to civil legal assistance.

After discussion, it was AGREED:

- to note the heavy demand for the service and that the next report would set out achievement of outcomes.

<b>ACTION: ID</b>
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## **13. TRENDS ANALYSIS**

Members considered a paper providing an overview of legal aid trends for the 12 month period from April 2010 to March 2011, compared with previous years.

It was noted that the reason for the increase in counsel's fees in solemn was attributable to the large number of co-accused cases, most of which involved counsel.

Members noted the position.

#### **14. ACTUARY'S ASSUMPTIONS: RETIREMENT BENEFITS**

Members considered a paper setting out the assumptions which would be adopted in arriving at the valuation of the Board's pension scheme liabilities in the Board's accounts for the period ending 31 March 2011. The paper was presented in advance of consideration of the accounts at the Board meeting on 25 July to facilitate any discussion about the choice of assumptions. Adoption of the proposed assumptions would result in a valuation of pension liabilities at £44.9m.

On the basis of the actuary's advice, the Board AGREED the pension assumptions.

**DATE OF NEXT MEETING:** Monday 25 July 2011.

The meeting ended at 3.25 p.m.