

THE SCOTTISH LEGAL AID BOARD

MINUTE OF A MEETING OF THE LEGAL SERVICES POLICY COMMITTEE HELD AT 10.30 AM ON MONDAY 13 DECEMBER 2010 AT 44 DRUMSHEUGH GARDENS, EDINBURGH

Present: Joseph Hughes (Convener)
Alastair Kinroy QC
Bill McQueen
Elaine Rosie
Lindsay Montgomery
Graham Watson
Iain Robertson

In attendance: Tom Murray, Director of Legal Services and Applications
Kingsley Thomas, Manager, Criminal and A&A Applications
Andrew McIntosh, Corporate Support Manager
Stuart Foster, Board Administrator

1. APOLOGIES FOR ABSENCE

Ray Small.

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 15 NOVEMBER 2010

The draft minute of the Legal Services Policy Committee held on 15 November 2010 was approved.

4. DRAFT MINUTE OF THE LEGAL SERVICES CASES COMMITTEE HELD ON 22 NOVEMBER 2010

The draft minute of the Legal Services Cases Committee held on 22 November 2010 was noted.

5. ACTION POINTS

The Committee considered and noted a paper by Tom Murray setting out progress with the implementation of actions arising at the previous meeting.

6. DIRECTOR'S REPORT

The Committee heard a verbal update on matters of interest which had arisen since the previous meeting.

Since the transfer of power to grant solemn criminal legal aid from the courts to the Board,

250 applications had been received, of which 4 had been refused and 103 continued for further information. Where applications were submitted with the required information, these were being granted on the day of receipt. The courts would be kept informed of the Board's turnaround times for applications on a regular basis.

The Committee were updated on the Scottish Government's request that the PDSO be expanded and its role on the duty plans be increased to provide savings of £4.5m – £4.75m in 2011-12. The Law Society on seeing the scale of the expansion required to achieve these savings had approached the Scottish Government asking that alternative means of achieving the necessary savings be considered, including reduction in fees. This was a change from the view they previously expressed to the Cabinet Secretary. The Cabinet Secretary agreed to consider alternative savings at a meeting with the Law Society which the Chief Executive had attended. The Board had been asked to cost alternative savings. The Law Society planned to meet with representatives of local faculties very early in the new year to canvas views and to revert to the Cabinet Secretary thereafter. The Cabinet Secretary would then take final decisions on how he wished the savings to be achieved. Meantime, the Cabinet Secretary had asked the Board to issue interim duty plans for January.

The Chief Executive would circulate a note to Board members to update them on the position.

ACTION: LM

7. SUSPECTS ADVICE AT POLICE STATIONS

Tom Murray made a presentation to the Committee about the work which had been done to develop a longer term police station duty scheme. The Scottish Government hoped to have regulations in place for the new scheme to come into effect in May 2011. This would replace the interim arrangements which were introduced in the summer.

The Scottish Government's key criteria for the scheme were:

- it should provide security of supply to avoid risks to prosecution and adequate access to legal advice
- it should be at lowest cost to the taxpayer

The Board had considered a range of options, including inhouse provision, judicare provision, a mixture of these, and contracting.

The range of possible costs varied considerably depending on a number of variables including the extent of suspect take up, the extent of use of telephone advice and the means of supply. It was noted that costs could be significantly reduced if videoconferencing could be used, but this approach would have to be piloted. Before the design of the duty scheme could be finalised, some matters relating to the *Cadder* decision required to be clarified by the Crown. Any police station duty scheme would potentially be subject to further change depending on the outcome of Lord Carloway's review of police station advice.

In considering the costings which had been carried out, it appeared that inhouse provision was likely to be the most cost-effective way of providing a substantial proportion of police station advice, particularly if telephone advice was used in a significant number of cases since there could be services from a form of call centre. This was based on current payment rates for judicare solicitors.

In discussion, the Committee expressed the view that it was likely that a mixture of inhouse and judicare provision was likely to be the best solution. However, this would require judicare costs to be reduced. Contracting may produce an effective longer term solution but it would be sensible to await the outcome of the Carloway review (and Ministers' decisions) before moving

too far down this path. The outline proposals for the new duty scheme would be discussed at the next *Salduz/Cadder* senior working group meeting which is chaired by the Scottish Government.

A further update update would be provided at the next meeting.

DATE OF NEXT MEETING: Monday 24 January 2011 at 10.30a.m.

The meeting ended at 1.10 p.m.