**THE SCOTTISH LEGAL AID BOARD**

**APPROVED MINUTE OF MEETING OF THE SCOTTISH LEGAL AID BOARD HELD In person and by VIDEO CONFERENCE (VC) ON Monday 27 June 2022**

Present: Ray Macfarlane, Chair

Sheriff John Morris

Marieke Dwarshuis

Tim McKay

Brigid Whoriskey

Sarah O’Neill

Lesley Ward

Gerry Bann (by video)

Brian Baverstock (by video)

In attendance: Colin Lancaster, Chief Executive

Marie-Louise Fox, Director of Strategic Development

Ian Dickson, Principal Legal Advisor (by video)

Adam Ford, Director of Operations

Paul Haran, Director of Client Services

Andrew McIntosh, Corporate Support Manager

Stuart Drummond, Corporate Governance and Policy Officer

Audrey Crawford (by video)(item 6)

Brian Sinclair (by video)(item 7)

1. **APOLOGIES FOR ABSENCE**

Apologies were received from David Sheldon QC and Raymond McMenamin

1. **DECLARATIONS OF INTEREST**

There were no interests declared.

1. **REVIEW OF MINUTES**

The draft minute of the Board meeting held on 16 May 2022 was **approved**.

The following minutes were **noted**:

* Approved Minute of the Audit Committee 7th March 2022
* Approved Minute of the LSCC 9th May

1. **CHAIR’S REPORT**

The Chair welcomed a return to meeting in the Board Room at Thistle House.

The Chair reported on the recent meeting between her, Colin Lancaster and Ash Regan on 8th June. It was a positive meeting with the Minister indicating that she was aware of the pressures being faced by staff and that options for resolving the current dispute on legal aid remuneration were being actively pursued.

1. **THE CHIEF EXECUTIVE’S REPORT**

The Chief Executive reported on recent press coverage of the disruptive action and echoed the Chair’s view that the meeting with the Minister had been positive although it was not yet clear what exact option the Scottish Government would propose.

The Board was updated on the latest developments in relation to PDSO resourcing and organisation. SG were considering options for the PDSO and Colin Lancaster was of the view that there was an opportunity to develop a more holistic approach to criminal justice, establishing a different way of operating the PDSO service.

Colin Lancaster also reported that he had met with the new Chief Executive of the Law Society of Scotland and had discussed a more collaborative approach.

It was noted that progress on the EHRC Section 23 Action Plan was good but that the EHRC had requested additional information and the policy team were liaising with them on this.

The Board requested an update on the Evidence and Procedure Review Pilot Scheme and it was confirmed that the EPR Project Board on 8th July would look at timescales.

The Board discussed the spending review and queried whether the proposed flat cash over five years provision applied to SLAB’s administration budget and whether this would impact heavily on SLAB. The view was that this was a review and not a budget and that there would be negotiations before the final figures were agreed.

The remainder of the Chief Executive’s report was noted.

1. **SLAB ADMINISTRATION – FINANCE AND RESOURCE REPORT**

The Board was presented with the SLAB Administration Finance and Resource Report . The purpose of the report was to show expenditure and resources for the year ended 31st March 2022.

It was reported that SG had increased the administration budget by £1,400k. Of this, £380k was available to be used in core funding to assist with pressures arising from the pay remit and the National Insurance rate increase. The remaining £1,020k was to be directed towards pension costs. It was reported that there had been a number of early retirements in the year that had put pressure on the pension fund but it was confirmed that the Scottish Government were liable for the lump sum payments and accordingly the risk sat with them.

The report was noted.

1. **LEGAL AID FUND FINANCE REPORT**

The Board was presented with the Legal Aid Fund Finance report. The purpose of the report was to show current legal aid expenditure and reflected on the forecasted position and associated risks.

The Board noted the cash expenditure to May 2022 was £19.3m, which was £2.7m higher than in 2021-22 and the total Grant Funding expenditure as at May 2022 was £0.44m against a year to date forecast of £0.49m. Total expected expenditure for the year was forecast to be £4m.

It was also reported that the variance in year to date budget for running costs for PDSO, CLAO and the SCL was down to receipt of a bill for the new case management system.

The variance on the quality assurance forecast was queried by the Board and it was explained that this had been a result of the impact of Covid-19 and should return to normal for future forecasts.

The report was noted.

1. **RISK UPDATE**

The Board were presented with the current risk register and a cover paper setting out the changes made to the register and the rationale for doing so.

The Board was asked to note the reframing of the following group of external facing risks, which had been discussed with the Audit Committee:

* + ***Risk 20****: SLAB advice to change statutory frameworks to support a user focussed service and/or a more transparent decision making framework is resisted or delayed.*
  + ***Risk 21:*** *Government, Courts, Police and others change practices without due regard to impact on operation of legal aid system or pressures on SLAB to implement change.*
  + ***Risk 22:*** *Lack of capacity and capability to deliver on Corporate Plan ambition*
  + ***Risk 23:*** *Changes in numbers of solicitors providing aspects of legal assistance on a national basis diverts resources from planned activity*

The rationale was when reviewing those risks they were concerned with external pressures or issues diverting resources away from our strategic priorities or key business as usual functions and that they all relied on influencing and building alliances.

It was concluded it was a challenge to detangle the risks because they conflated an ‘event’ with an ‘impact’. The risks had been reframed around the impacts SLAB were trying to avoid, namely diversion of resources away from our objectives (which also prevented delivery of improvements to legal aid), and reputational damage.

It was noted that the Strategic Planning Group would have a stronger focus on risks ensuring that the nature of shared and transferred risks with the Scottish Government was clearer. The Board expressed the view that tracking such risks was important to ensure the responsibility was clear and that these risks should be kept under regular review. It was agreed that the Audit Committee would be the appropriate forum to do that.

**ACTION: CE OFFICE**

1. **OPERATIONAL PERFORMANCE REPORT**

The Board were presented with the Operational Performance Report the purpose of which was to report on operational performance as at 31st May 2022.

The Board noted that performance across Applications and Accounts was good and in line with expectations.

The Board noted that the Further Work benchmark had been exceeded but it was explained that this was due to some firms being slow to provide additional information that had been requested. It was a low number of cases and the situation was being monitored closely.

The report was noted.

1. **MEETINGS WITH OUTISIDE BODIES REPORT**

The Board was presented with a paper setting out the details of key meetings attended by senior SLAB staff with external organisations.

The Report was noted.

* **DATES OF NEXT MEETINGS**

The dates of the next meetings were noted

• 4th July 2022 – Legal Assistance Policy Committee

• 11th July 2022 - Legal Services Cases Committee

• 15th August 2022 – Legal Assistance Policy Committee, Board Meeting.