**THE SCOTTISH LEGAL AID BOARD**

**APPROVED MINUTE OF MEETING OF THE SCOTTISH LEGAL AID BOARD HELD at 1:30 pm at thistle house ON Monday 22nd May 2023**

Present: Ray Macfarlane, Chair

Brigid Whoriskey (by VC)

Sarah O’Neill

Lesley Ward

Steve Humphreys

Raymond McMenamin (by VC)

David Sheldon KC (by VC)

Sheriff John Morris KC

Brian Baverstock

Gavin Stevenson

Judith Robertson

In attendance: Colin Lancaster, Chief Executive

Marie-Louise Fox, Director of Strategic Development

Ian Dickson, Principal Legal Advisor

Adam Ford, Director of Operations

Linda Ross, Director of Corporate Services

Carolyn McLeod, Director of Client Legal Services

Sarah Halliday, Head of HR and Organisational Development (item 11)

Kingsley Thomas, Head of Criminal Legal Assistance (item 13)

Andrew McIntosh, Corporate Support Manager

Stuart Drummond, Corporate Governance and Policy Officer

1. **APOLOGIES FOR ABSENCE**

There were apologies from Gerry Bann

1. **DECLARATIONS OF INTEREST**

There were no interests declared.

1. **REVIEW OF MINUTES**

The draft minute of the Board meeting held on 20th March 2023 was **approved**.

The following minutes were **noted**:

* Audit draft Minute 6 March 2023.
* Legal Services Cases Committee Approved Minutes of the meetings 27 March and 17 April 2023

1. **CHAIR’S REPORT**

The Chair welcomed Judith Robertson and Gavin Stevenson to the their first meeting of the Board and confirmed that Gavin had been appointed as the Convener of the Audit Committee and Judith a member of the Audit and Legal Assistance Policy Committees.

1. **THE CHIEF EXECUTIVE’S REPORT**

The Chief Executive reported on matters of interest that had arisen since the last meeting.

An update was provided on the section 23 agreement with the Equality and Human Rights Commission and the Board were informed that the latest progress report had been well received by the EHRC. Discussion were ongoing with the Commission about the conclusion date for the action plan.

The Board was also informed that SLAB had received a ministerial direction in relation to the grant for the Scottish Women’s Aid project. The Chief Executive advised that the Scottish Government had agreed to accept the risks associated with the project.

The Chief Executive informed the Board that, in relation to a proposed pilot of single judge rape trials as part of the Victims, Witnesses, and Justice Reform (Scotland) Bill, reassurance had been provided to the PDSO that they were not being committed to participating in the pilot. The details of the pilot were not clear at this stage and there had been no discussions between SLAB and the Scottish Government about it.

The concerns raised by the profession in relation to such trials were discussed and it was noted that the proposals were based on extensive research and consultation.

The Board noted that it’s interest was not in the policy of juryless trials but on the potential impact to SLAB staff. The risks to SLAB in PDSO being involved in such a policy was discussed with a number of concerns and potential challenges being raised around the solicitor and client relationship. It was noted that this policy was still in the early days of discussion but that further consideration of the issues discussed would be undertaken by the Executive and the Board involved as necessary.

The remainder of the report was **noted**.

1. **LEGAL AID FUND FINANCE REPORT**

The Board was presented with the Legal Aid Fund Finance report to the end of March 2023 which showed that the draft cash expenditure for the year to March 2023 at £134.9m, which was £16.6m higher than in 2021-22.

The report was **noted**.

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

The Board was presented with the SLAB Administration Finance and Resource report which showed that expenditure for the period ended 31st March 2023 was £13.7m compared to budget profile of £13.8m.

The report was **noted**.

1. **BUSINESS PLAN REVIEW 2022-23**

The Board was presented with a paper that provided the end year position for projects that made up the Business Plan for 2022-23.

It was noted that delivery had been generally positive with non-delivery or delay caused by issues outwith SLAB control or by resourcing challenges during the year.

The report was **noted**.

1. **BUSINESS PLAN 2023-24**

The Board considered a paper which set out the planning and preparation in place for the 2023-24 Business Plan and listed the activities to be carried out as part of that plan.

The Board considered and **approved** the activity for the Corporate Business Plan 2023-24.

1. **COMPLAINTS HANDLING UPDATE**

The Board was presented with the Complaints Handling Update which detailed complaints received in quarters three and four of 2022-23. It was noted that overall complaint numbers remained low.

The Board was encouraged to note that, as the result of a complaint, the Civil Legal Assistance Office has instigated a change in procedures, which demonstrated that learning points had been identified and acted upon.

The report was **noted**.

1. **PEOPLE ANNUAL REPORT**

Sarah Halliday joined the meeting and presented the People Annual Report, which updated the Board on key statistics that provided insight on the wellbeing, performance and culture of SLAB.

The Board discussed a number of topics such as the proposed regrading exercise and the pay benchmarking exercise. It was noted that modern apprenticeships and graduate apprenticeships were among the options being considered to attract younger people to SLAB.

It was also noted that SLAB would be adopting a trauma informed approach to dealing with mental health and stress related wellbeing issues.

The Board expressed its thanks to Sarah Halliday for producing an insightful and interesting paper.

The paper was **noted**.

1. **OPERATIONAL PERFORMANCE REPORT**

The Board was presented with the Operational Performance Report which reported three-month average performance figures across January, February and March 2023.

It was noted that performance across applications and accounts was good with no major issues.

The paper was **noted**.

1. **DE-REGISTRATION REPORT**

Kingsley Thomas joined the meeting and presented a report where the Board were asked to consider whether it wished to consider the possible de-registration from the Criminal Legal Assistance Register of a solicitor.

It was acknowledged that the Board had previously considered the matter on 23 March 2020, when it was asked to consider whether it was appropriate for the solicitor to remain registered to provide criminal legal assistance after peer reviews had evidenced serious concerns as to their fitness to practice. At the time the decision was to defer this for a further review in twelve months’ time. This timescale had been extended due to the Covid pandemic. After returning to work, the solicitor began operating on an agency basis, and was not able to supply case files for a normal final review. It was noted that the solicitor had advised that they were now work as an agency solicitor only, and was happy to sign an undertaking to that effect.

After careful consideration and discussion, it was **agreed** to:

* proceed with instructing a final peer review to take place based on an enhanced no file review process. It was expected that this process should take no longer than four months. It was agreed that the solicitor should be required to sign a professional undertaking confirming that they would now only provide criminal legal assistance as a court agent.

It was also **agreed** that the revised final review should include the following:

* An interview with the solicitor’s supervisor/compliance partner (outwith their presence) so that they can confirm what work being done now, and how they are being supervised doing this work.
* Where possible, observation by a Peer Reviewer of the solicitor’s performance in court to support an assessment of their competency to carry out this work on the basis that if the solicitor was only doing court, the logistics of arranging this should be much easier.

The remainder of 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 paper was **noted**.

1. **AGENDA PLANNER**

The agenda planner, which set out the main agenda items for forthcoming meetings, was noted.

1. **DATES OF NEXT MEETINGS**

The dates of the next meetings were noted:

* Legal Services Cases Committee 5 June 2023.
* Audit Committee 19 June 2023
* Legal Assistance and Policy Committee 31 July 2023.
* Board Meeting 31 July 2023

The meeting concluded at 15:25