



Standing Orders

March 2024

The Scottish Legal Aid Board

www.slab.org.uk

A. GENERAL

1. The Scottish Legal Aid Board (the Board) in accordance with the provisions of paragraph 12 of Schedule 1 of the Legal Aid (Scotland) Act 1986, has made the following arrangements for the discharge of its functions and these arrangements are to be referred to as the standing orders of the Board.
2. These standing orders take effect until further notice and supersede all prior standing orders.
3. The standing orders apply to the Board and the Standing and Ad Hoc Committees for which specific provision is made within these orders. Unless the Board specifies to the contrary, they apply to any other committees, or sub-committees which may be set up by the Board from time to time but shall not apply to working parties or groups.
4. Standing orders may be suspended at any meeting of the Board at which two thirds of the members present are in favour. Unless expressly agreed otherwise by these members, such suspension will have effect only for the item of business immediately following, and standing orders will come into force again immediately afterwards.
5. These standing orders may be revoked or superseded at any meeting of the Board for which advance notice of the item has been given.

B. COMMITTEES

STANDING COMMITTEES

1. The Board has set up the following standing committees, which are the:
 - Legal Assistance Policy Committee
 - Legal Services Cases Committee
 - Audit Committee
 - Remuneration & Appointments Committee
2. The numbers and names of the standing committees and their sub-committees, their membership and the matters remitted to them may be varied by the Board from time to time. Membership of standing committees may include, or consist of, persons who are not Board members. The Board may also form other committees or sub-committees which may include, or consist of, persons who are not Board members.
3. Each committee shall have a convenor, which may be a co-opted member of that committee. In the absence of the convenor, the Chair will nominate a member to act in his/her place. Where there has been no prior agreement as to who will act in place of the convenor the members present at a meeting shall elect one of their number to act in his/her place.
4. The Chair of the Board shall be *ex officio* member of all committees except the Audit Committee but may attend meetings of the Audit Committee. The Chief Executive will be a member of the Legal Services Policy Committee. The Chief Executive will normally attend meetings of the Board and its committees.
5. Each committee shall have the full powers of the Board to deal with any matter within its remit and matters delegated to it. Anything done by a committee in relation thereto shall have effect as if it has been done by the Board. However, where a matter is particularly

controversial, sensitive or novel the Committee may wish to refer the matter to the Board.

6. Subject to the approval of the Board, a committee may appoint a sub-committee which may include members who are not members of the Board.
7. Membership of the Board's standing committees will be appointed by the Chair in consultation with the convenor of each committee. The convenor of a standing committee will be appointed by the Chair of Board.

AD HOC COMMITTEES

8. The Board may from time to time establish ad hoc committees for specific purposes and unless other provision is made paragraph B2 will apply to ad hoc committees as it does to standing committees.
9. Without prejudice to the foregoing generality, the Board has provided that the following ad hoc committees are established in principle and may be convened by direction of the Chair in the circumstances provided:
 - (a) A Section 31 Committee - where the Directors have referred a matter in accordance with the SLAB Section 31 Procedure.
 - (b) The Review Committee - where there is a requirement consider and decide applications for review of first instance decisions of the Legal Assistance Policy Committee (including reviews of conditions) where review by the Legal Services Cases Committee is excluded by virtue of the involvement of the latter Committee in a prior decision in relation to the application.
10. The Chair of the Board shall be *ex officio* member of all ad hoc committees but may decline or resign membership of any given ad hoc committee at his/her discretion.
11. Each ad hoc committee shall have a convenor, which shall be the Chair of the Board where he or she remains a member but may otherwise be any other member of the committee including a co-opted member, selected by the Chair. In the absence of the convenor at any meeting, the Chair will nominate a member to act as convenor, failing which the members present at a meeting shall elect one of their number to act as convenor for the meeting.
12. An ad hoc committee shall be dissolved once it has dealt with the matter allocated to it.

C. WORKING PARTIES OR GROUPS

Working parties or groups may be set up from time to time by the Board, the standing committees, the Board Chair, the Chief Executive or senior officials for the purpose of studying particular issues or problems. A working party or group is not an executive arm of the Board and may regulate its procedure as it sees fit unless any particular procedure has been prescribed for it by the Board. Working parties or groups need not contain Board members.

Where the conclusions of a working party or group require the authority of the Board or a committee before they can be implemented, the working party or group shall submit a report to the Board or the relevant committee setting forth these recommendations. Working parties or groups set up by the Board or standing committees should have a Chair or convenor, maintain minutes of proceedings and report no less frequently than quarterly to the Board or appropriate standing committee. These reports may be in writing or verbal.

D. QUORUM

1. The quorum of the Board shall be five, at least one of whom shall have been appointed as a member of the Law Society of Scotland, the Faculty of Advocates or a member with experience of the procedure and practice of the courts and at least one member who was not appointed in any of these categories.
2. The quorum of the Legal Assistance Policy Committee shall be four:
 - two shall be members of the Board, one of whom shall have been appointed to the Board as a member of the Law Society of Scotland, the Faculty of Advocates or a member with experience of the procedure and practice of the courts;
 - two of the four should be lay members;
 - the Committee may co-opt senior members of staff to become quorate.
3. The quorum of the Legal Services Cases Committee shall be four:
 - two shall be members of the Board, one of whom shall have been appointed to the Board as a member of the Law Society of Scotland, the Faculty of Advocates or a member with experience of the procedure and practice of the courts;
 - two of the four should be lay members;
 - the Committee may co-opt senior members of staff to become quorate.
4. The quorum of the Audit Committee shall be three Board members.
5. The quorum of the Remuneration and Appointments Committee shall be two Board members.
6. The quorum of a Section 31 Committee shall be three, one of whom must meet the requirement specified in either subparagraph (a) or (b) below, as accords, unless the convenor of the Section 31 Committee in question is satisfied and has directed that this requirement should not apply in relation to a referral, and the Committee convened to consider it.
 - (a) where the Respondent is a solicitor, at least one of the Committee members sitting should include a member who is, or has in the past practised as, a solicitor.
 - (b) where the Respondent is an advocate, at least one of the Committee members sitting should include a member who is or has in the past been a member of the Faculty of Advocates.
7. The quorum of the Review Committee shall be three.
8. At any Committee meeting at which a quorum is not present by one, the members present may co-opt any other person including an official of the Board, in order to make a quorum, always having in mind the need for there to be at least one lay member present where that is a requirement.
9. At any meeting at which the quorum is not present and a decision is required, the members present may proceed with the business of the meeting. Immediately following the meeting, the members not present will be contacted by the Chair, or Convenor or person acting on their instruction (by group conference call if possible), to discuss the issues arising at the meeting and to obtain the decision from a quorum of members. In cases of significant urgency, the Chair can use his authority under E8 of these Standing Orders.

E. CALLING OF MEETINGS

1. Meetings of the Board and its committees shall be called by the Chair or the appropriate Convenor or by any person acting under their instructions.
2. Wherever practicable, notice of a meeting of the Board or its committees shall be given at least seven calendar days beforehand.
3. The dates of meetings of the Board or its committees will normally be set out in an agreed programme. Where it is necessary to change the date of a meeting or call an additional meeting notice of at least seven calendar days will be given wherever practicable.
4. In cases of special urgency, a meeting (other than a meeting of a Section 31 Committee) shall be properly called by the Chair or appropriate Convenor if notice can be received by members two days prior to the meeting.
5. Where a quorum of members of a committee or sub-committee (other than a Section 31 Committee) are present a meeting of that committee shall be properly convened if the members agree to waive the requirement for notice.
6. Any members unable to attend a meeting of the Board or its committees in person may participate in the meeting via a video link or telephone conference call. A member participating in this way will have the same rights and responsibilities as members attending in person, including full voting rights, and his/her participation will count as attendance for the purposes of establishing whether a quorum is present.

Staff attendance at meetings

1. In addition to the Chief Executive and Directors, the Principal Legal Adviser and the Corporate Support Manager to the Chief Executive will attend Board meetings. Other members of staff will attend for agenda items as necessary unless the subject matter of discussion makes this inappropriate.

Decision making outside of meetings

1. In some circumstances, it may be impracticable to hold a meeting of the Board or its Committees to transact Board or Committee business. In such cases:
 - (a) The Chair, or an officer so authorised by the Chair, will use all reasonable endeavours to contact members stating the reasons why a meeting is not possible or appropriate, specifying the business proposed and the nature of the decision required.
 - (b) Those members contacted will offer their views on the issue to the Chair or authorised officer as quickly as possible.
 - (c) The Chair, or officer so authorised by the Chair, will determine a decision reflecting the views of the contacted members.
 - (d) No decision, except under E8(e) shall be deemed valid unless it has been agreed to by the relevant quorum. The Chair, Chief Executive or officer so authorised by the Chair, will confirm the decision in writing to all members (this includes email) and it will be recorded in the minutes of the next relevant Board or Committee meeting.
 - (e) In cases of significant urgency where it is not possible for decisions to be agreed by the relevant quorum, the Chair or Convenor can make a decision and the relevant members will be informed at the earliest available opportunity where the Convenor or Chair has exercised such powers, and the reasons for doing so. The decision will be recorded in the

minutes of the next relevant Board or Committee meeting.

- (f) Where the Convenor or Chair is unavailable to take a decision on an urgent case from the Legal Services Cases Committee or Legal Assistance Policy Committee, authority may be granted to two members of the Committee, one of whom must be a Board member who was appointed to the Board as a member of the Law Society of Scotland or Faculty of Advocates or with experience of the procedure and practice of the courts, to take the decision. This procedure is subject to the proviso regarding review applications set out in point in F7 of these Standing Orders.

F. CONDUCT OF BUSINESS AND VOTING

1. A meeting may decide unanimously or by a majority of the members present. In the latter case, a vote of the members may be taken orally, in writing or by a show of hands at the Chair's discretion. The Chair or convenor shall have a casting, as well as a substantive vote.
2. The minute of the meeting shall record any decision taken. In the absence of a statement to the effect that the decision was taken by a majority, it will be deemed to record a unanimous decision. A member dissenting from a majority decision may ask for their dissent to be recorded in the minutes.
3. A member of a committee or sub-committee not present at a meeting at which a decision is taken from which he or she dissents may raise his or her concerns with the Chair. Such a decision will normally be implemented. However, it is within the discretion of the Chair and the Chief Executive to defer its implementation and refer the matter for further discussion or to decide that the matter will appear as an item on the next agenda of the Board or parent committee or arise through the minutes.
4. A member who wishes an item placed on the agenda for a meeting of the Board or a standing committee shall inform the convenor or Chair. It will lie in the Chair's discretion whether to place the item on the agenda and for which meeting.
5. Any member who has a personal or professional interest in a matter shall declare that interest in accordance with the Board's Code of Conduct for Members. The member may seek advice from the Standards Officer or the Chief Executive in such matters.
6. Declarable interests can be (a) member's financial interests, (b) member's non-financial interests or (c) the interests, financial or non-financial, of other persons. If a Board Member, having regard to the Board Members Code of Conduct, considers that he or she has a declarable interest, and in turn declares that interest, the Board Member must then leave the room for the duration of any discussion and decision on the item to which the declared interest relates. The minute will record declarations of interest, whether they are financial or non-financial, and that the member concerned left the meeting room.
7. If a case review application is being considered, Board Members of the Legal Services Policy Committee or Legal Services Cases Committee involved in the original decision must declare a non-financial interest and leave the room during discussion and decision on the item to which the declared interest relates. The minute will record declarations of interest, whether they are financial or non-financial, and as accords that the member concerned left the meeting room.
8. If a case review application is being considered by the Legal Assistance Policy Committee, any executive team members of Legal Services Cases Committee involved in the original decision and in otherwise attendance at that Policy Committee meeting should leave the

room during discussion and decision on the case. The minute will record, as accords, that the executive member concerned left the meeting room.

G. CHAIR OR CONVENOR

1. The Chair or convenor shall decide all matters of order, competency and relevancy and their decision shall be final. Convenors may also decide that matters can be dealt with by circulation of papers rather than convening a meeting where, for example, there are only limited matters to be considered.
2. If the Chair is unable to attend a meeting of the Board, he will nominate another Board Member to act in his place for that meeting. Where the Chair is unable to attend to Board business for a longer period of time (for example, through illness) and it is deemed necessary to select a temporary Chair, this will be approved by the Scottish Government.

H. ACCOUNTABLE OFFICER RESPONSIBILITIES

1. The Chief Executive, as Accountable Officer, may in certain circumstances require to set out in writing his objections to a course of action contemplated by the Board or its Chair. Where such a situation arises no standing order of the Board shall apply if it would tend to impede either the setting forth of these objections, or consideration of them by the Board.
2. Nothing in the previous paragraph shall be read so as to imply that the Chief Executive may not set forth objections to a course of action contemplated by the Board or its Chair other than in writing. Such objections should be confirmed in writing.
3. The Board shall not overrule objections from the Chief Executive, as Accountable Officer other than by a majority of three quarters of those present, and at least two thirds of Board Members then serving being present. In this event the Accountable Officer will act in accordance with the requirements of the Memorandum to Accountable Officers issued by the Scottish Government.

I. CIRCULATION OF PAPERS AND CLEARANCE OF MINUTES

1. For scheduled meetings of the Board or standing committees, papers to be considered will be dispatched at least six calendar days in advance of the meeting whenever practical.
2. For all other meetings of Board committees or working groups of the Board, papers will be circulated as soon as practical after the meeting has been called.
3. Minutes of Board and Committee meetings will record members present, others in attendance, and any apologies. For meetings of the Board, standing committees or working groups the draft minute of the meeting will be submitted to the Chair or convenor for approval within 14 calendar days of the meeting. The draft minute will be placed on the agenda of the next meeting and circulated with the agenda. However, if the next meeting is not to be held within five weeks of the last meeting the draft minute will be circulated to relevant members and officials for information.
4. Minutes of standing committees of the Board, whether approved or draft, will be placed on the agenda for the next available Board meeting.

J. COLLECTIVE RESPONSIBILITY AND CONFIDENTIALITY

1. The Board and committees operate based on collective responsibility for decisions. Members are therefore expected, if questioned on a matter where the Board or a committee has taken a view, to support the position reached.
2. If members are questioned on matters that fall within the remit of SLAB but on which a Board or committee view has not been taken, they may give a personal view but should stress that it does not necessarily reflect the view of SLAB. Before doing so, they are advised to consult with the Chair or Chief Executive.
3. All members are required to maintain confidentiality as detailed in the SLAB Code of Conduct and any guidance to that code provided by the Chief Executive.

K. REMITS OF COMMITTEES

1. Legal Assistance Policy Committee

1.1 REMIT

The purpose of the Legal Assistance Policy Committee is to assist with:

- the review and development of policies on the administration of the legal aid funding
- relevant advice to Ministers in line with the Authority Framework.

In doing so, the Committee will provide oversight, insight and advice. It will also provide assurance to the Board on the quality of SLAB's policy and advice-giving functions.

The Committee will:

- (a) consider reviews of policy or policy development and related guidance. This will be dependent on the extent to which that policy review or policy development presents risks or challenges to feasibility, viability, or desirability. This will be determined by the Executive during the policy development process.
- (b) consider advice for the Scottish Government which contains SLAB's preferred option for the development of publicly funded legal advice and/or the Board's role in the same.
- (c) carry out all other relevant activities as shall be deemed appropriate or as requested by the Board.
- (d) report annually and as may be required on the work of the Committee and any other significant issues to the Board.
- (e) act as a decision maker in review applications arising from cases initially decided by the Legal Service Cases Committee, or in cases otherwise referred to it by the Legal Services Cases Committee.

1.2 PATTERN OF MEETINGS

The Committee will meet as required - six meetings per year will be scheduled.

1.3 MEMBERSHIP

There will be at least five members of the Board including two members who were appointed to the Board as members of the Law Society of Scotland or Faculty of Advocates or with experience of the procedure and practice of the courts and three Board members who were appointed to the Board as lay members.

The Chief Executive will be a member.

Officials will attend meetings as required.

2. Legal Services Cases Committee

2.1 REMIT

The purpose of the Legal Services Cases Committee is to consider sensitive, high profile, high value or other specified types of case either at first instance or on review. The Committee will deal with the following:

- applications for legal aid to appeal to the Supreme Court requiring Committee input;
- applications for legal aid to sue solicitors arising out of professional negligence where there is a split decision between reporters;
- applications for legal aid to raise an action against the Scottish Legal Aid Board;
- applications for legal aid referred by the Legal Services Department or external reporters, including cases which may be potentially high cost, high profile, or sensitive in nature for decision or advice from the Committee;
- the Committee may be asked from time to time to consider significant legal aid accounts;
- identifying policy or procedural issues for consideration by the Legal Assistance Policy Committee or the Executive;
- The Committee shall refer to the Legal Assistance Policy Committee for decision in any case upon which it is unable to reach a decision, or which appears to raise a question of policy or general principle which is unclear or undecided;
- The Committee shall consider any review applications arising from cases initially considered by the Legal Assistance Policy Committee in which the Committee have not previously been required to make a decision in relation to the application.

2.2 PATTERN OF MEETINGS

The Committee will meet around ten times per annum unless there is insufficient business to form an agenda.

2.3 MEMBERSHIP

- Members of the Legal Services Cases Committee will not normally be members of the Legal Assistance Policy Committee since cases can be referred to the latter Committee for decision, in certain circumstances;
- at least three members of the Board will be members of the Legal Services Cases Committee;
- the Director of Operations and the Principal Legal Adviser will be members of this Committee;
- the Committee will normally have a minimum of four co-opted members. Decisions on the number and selection of co-opted members will be taken by the Chair in consultation with the Convenor of the Legal Services Cases Committee, the Convenor of the Legal Assistance Policy Committee and the Chief Executive.

3. Audit Committee

3.1 REMIT

The Board has established an Audit Committee as a Committee of the Board to support them in their responsibilities for issues of risk, control and governance, and associated assurance through a process of constructive challenge.

3.2 MEMBERSHIP

Membership of the Audit Committee will comprise four members of the Board. The quorum is three Board members. The Audit Committee will be provided with a secretariat function by the Chief Executive's Office.

3.3 REPORTING

- The Audit Committee will formally report in writing to the Board after each meeting and a copy of minutes of the meeting will normally form the basis of the report;
- The Audit Committee will provide the Board and Accountable Officer with an Annual Report based on the Annual Assurance prepared by the Head of Internal Audit and a summary of the Committee's activities during the year, timed to support finalisation of the accounts and the Governance Statement, summarising its conclusions from the work internal audit has done during the year.

3.4 RESPONSIBILITIES

The Audit Committee will advise the Board and Accountable Officer on:

- the strategic processes for risk, control and governance and the Governance Statement;
- the accounting policies, the accounts, including the process for review of the accounts prior to submission for audit, levels of error identified, and management's letter of representation to the external auditors;
- the planned activity and results of both internal and external audit;
- the adequacy of management response to issues identified by audit activity, including external audit's management letter/report;
- the effectiveness of the internal control environment;
- assurances relating to the corporate governance requirements for the organisation;
- proposals for tendering for either internal or external audit services or for purchase of non-audit services from contractors who provide audit services (*where appropriate*);
- anti-fraud policies, whistle-blowing processes, and arrangements for special investigations.

The Audit Committee will also periodically review its own effectiveness and report the results of that review to the Board and Accountable Officer.

3.5 RIGHTS

The Audit Committee may:

- co-opt additional members for a period not exceeding a year to provide specialist skills, knowledge and experience; *and*
- procure specialist ad-hoc advice at the expense of the organisation, subject to budgets agreed by the Accountable Officer.

3.6 ACCESS

The Head of Internal Audit and the representatives of External Audit will have free and confidential access to the Convenor of the Audit Committee.

3.7 MEETINGS

The procedures for meetings are:

- the Audit Committee will meet at least four times per financial year. The Convenor of the Audit Committee may convene additional meetings, as deemed necessary;
- one meeting a year will be preceded by a private meeting between the Audit Committee and the External Auditors to enable discussion of any issues best raised without management present;
- Audit Committee meetings will normally be attended by the Accountable Officer, the Director of Corporate Services and Accounts, and the Head of Internal Audit;
- the Audit Committee may ask any other officials of the organisation to attend to assist it with its discussions on any particular matter;
- the Audit Committee may ask any or all of those who normally attend but who are not members to withdraw to facilitate open and frank discussion of particular matters;
- the Board or Accountable Officer may ask the Audit Committee to convene further meetings

to discuss particular issues on which they want the Committee's advice.

3.8 INFORMATION REQUIREMENTS

For each meeting the Audit Committee will be provided with:

- a report summarising any significant changes to the organisation's Risk Register;
- a progress report from Internal Audit summarising:
 - work performed (and a comparison with work planned);
 - key issues emerging from Internal Audit work;
 - management responses to audit recommendations;
 - significant changes to the Audit Plan;
 - any resourcing issues affecting the delivery of Internal Audit objectives.

As and when appropriate the Committee will also be provided with:

- proposals for the Terms of Reference of Internal Audit;
- the Internal Audit Strategy;
- the Head of Internal Audit's Annual Assurance;
- external quality assurance reports on the Internal Audit function;
- the draft accounts of the organisation;
- the draft Governance Statement;
- a report on any changes to accounting policies;
- external Audit's management letter/report;
- a report on any proposals to tender for audit functions;
- a report on cooperation between Internal and External Audit.

A rolling annual agenda programme for meetings is established each year, but will include:

- An annual report on the work of the Applicant Investigations department and the Compliance and Solicitor Investigations department.

4. Remuneration and Appointments Committee

4.1 REMIT

The purpose of the Remuneration and Appointments Committee is to consider the remuneration of the Board's senior staff and to take an overview of appointments and remuneration issues.

Specifically, the Committee will:

- agree the Board's pay remit to be submitted to the Scottish Government;
- consider the strategic implications of staff pay and reward policies including pension arrangements for the Board;
- consider remuneration and terms and conditions for the Chief Executive and Directors, including annual bonuses;
- consider and advise, in consultation with the Chief Executive, appraisals and succession planning for the Executive Team;
- consider and advise, in consultation with the Chair, the annual appraisal and objectives of the Chief Executive.

4.2 PATTERN OF MEETINGS

Meetings will be held at least twice per annum and otherwise as required.

4.3 MEMBERSHIP

The Committee will comprise at least three, and a maximum four, members of the Board, including the Chair. The Chief Executive will normally attend meetings, except for items which are in relation to the Chief Executive.

5. Section 35 Committee(s)

5.1 REMIT

The purpose of a Section 31 Committee is to consider referrals from the Directors in relation to the possible exclusion of solicitors or advocates under Section 31 of the Legal Aid (Scotland) Act 1986.

Specifically, a Committee will consider all substantive and procedural issues arising from the submission of referrals to a Committee by the Directors and all matters necessary to determine proceedings in accordance with the Board's Section 31 Procedure. A Section 31 Committee has the full powers of the Board to determine any decision to exclude a solicitor or advocate under section 31 of the Act on its behalf. More than one section 31 Committee may be convened contemporaneously to deal with separate referrals where the volume of business at any given time or other logistical considerations make that appropriate.

5.2 PATTERN OF MEETINGS

Meetings will be held as required.

5.3 MEMBERSHIP

A Section 31 Committee shall comprise either:

- (a) the Chair of the Board, who will convene the Committee and at least two other members selected by the Chair, from the group comprising the membership of the Board and the Chief Executive of the Board; *or*
- (b) where the Chair declines membership of the committee, at least three members so selected by the Chair from the said group, one of whom will be appointed convenor.

A Section 31 Committee may co-opt such further persons as members as it considers appropriate from time to time. In the event that the Chair/Convenor or any other selected members of a committee is unable to attend a meeting, further members may be drawn from membership of the Board or co-opted for the purposes of that meeting. If the Chair/Convenor is not in attendance for a meeting of a committee, that meeting will be convened by a committee member nominated in advance by the Chair/Convenor or otherwise agreed by the attending members for that meeting. Senior members of Board staff may attend meetings as the Chair/Convenor directs.

6. Review Committee

6.1 REMIT

The purpose of a Review Committee is to consider and decide applications for review of first instance decisions of the Legal Assistance Policy Committee (including reviews of conditions) where review by the Legal Services Cases Committee is excluded by virtue of the involvement of the latter Committee in a prior decision in relation to the application.

6.2 PATTERN OF MEETINGS

Meetings will be held as required.

6.3 MEMBERSHIP

A Review Committee will consist of a single Board member and two senior officials of the Board. The Board member, who will chair the committee, may be any Board member who has not attended as a member any of the prior meetings of either the Legal Assistance Policy Committee or Legal Service Cases Committee when earlier decisions in relation to the application were made. Minutes of committee decisions will be submitted to the meeting of the Legal Assistance Policy Committee which follows the committee decision, for information.