

JUDICIAL APPOINTMENTS BOARD FOR SCOTLAND

MINUTES OF THE BOARD MEETING HELD ON MONDAY 12th APRIL 2010 IN THE BOARDROOM, 44 DRUMSHEUGH GARDENS

Present: Sir Muir Russell, Chairing Member
Ms Elspeth MacArthur
Mr Sandy Mowat
Professor Andrew Coyle
Reverend John Miller
Lady Smith
Sheriff Principal Sir Stephen Young
Sheriff Kenneth Ross
Mr Roy Martin QC
Mr Martin McAllister

In attendance: Mr Trevor Lodge, Chief Executive
Mr Chris Orman, Secretary to the Board
Ms Alessandra Asteriti, Secretariat

1. Welcome and Apologies

1.1 The Chairing Members welcomed members to the meeting. There were no apologies.

2. Minutes of the meeting held on Monday 8th March

2.1 The Board approved the minutes of the meeting held on Monday 8th March, subject to minor amendments.

3. Matters arising from the minutes.

3.1 There were no matters arising.

4. Business Plan 2009/10 to 2011/12 (JAB/2010/12)

4.1 The Board considered the draft Business Plan 2009/10 to 2011/12 and agreed on a number of amendments. In particular, the Board felt that there

should be separation of the 3-year strategic objectives from the annual business objectives so that there is clarity about the priorities to be addressed from year to year over the life of the plan.

- 4.2 The Board discussed the issue of its independence, and agreed that it was important that this was stressed in the 'Key Priorities' section, by reference to the wording of section 9(3) of the Judiciary and Courts (Scotland) Act 2008.
- 4.3 The Board noted that consultation with the judiciary would be a matter for further discussion with the Lord President and the Scottish Government in due course (see paragraph 7 below).
- 4.4 The Board agreed to remove Appendix D – Working with Interested Parties.

Action Point: Chief Executive to amend the Business Plan accordingly.

5. Diversity Working Group Report: Follow Up (JAB/2010/13)

- 5.1 The Board received an update on initial action taken to implement the recommendations in the Diversity Working Group report. The Chief Executive and the Secretary to the Board had met representatives of the Faculty of Advocates and the Law Society of Scotland to discuss how to take forward the report's recommendations, and specifically, the establishment of a collaborative group. This meeting had resulted in proposals, summarised in the paper, for the establishment of the group which the Board accepted. The Board agreed that Professor Coyle should chair the group.
- 5.2 The Board discussed the membership of the collaborative group and noted that the Scottish Government had expressed an interest in participating in the Group. The Board agreed that the Scottish Government should be invited to attend meetings as 'observers'.
- 5.3 The Chairing Member thanked Ms MacArthur for her valuable contribution to the Diversity Working Group and the production of its report.

Action Point: In discussion with the chair, Chief Executive to arrange first meeting of the collaborative group.

6. Diversity, Communication and Outreach (JAB/2010/14)

- 6.1 The Board considered the paper *Diversity, Communication and Outreach* which put forward suggestions for work to be put in hand before the next shrieval competition to encourage applications from the widest possible range of eligible individuals.
- 6.2 The Board agreed that a priority should be to organise a series of events around the country to promote the work of the Board and to explain the judicial appointment process to those who might be interested in applying. It was further agreed that the first of these events should take place in Glasgow, Edinburgh, Aberdeen and Dundee.

Action Point: Secretariat to make arrangements for four 'roadshows' events to take place in June.

7. Judicial References – Letter from Lord President (JAB/2010/15)

- 7.1 The Board considered the Lord President's letter of 17 March 2010 in which he indicated a willingness to work with the Board to find a way of including comment on applicants from certain members of the judiciary at an appropriate stage in the selection process.
- 7.2 The Lord President's letter followed a meeting in January with representatives of the Board and the Scottish Government. At that meeting the Chairing Member had indicated that the Board was keen to broaden its knowledge of applicants beyond the information provided by the applicants themselves and the referees they nominate. One possibility was that appropriate members of the judiciary might be able to provide relevant information that would be important to take into account when considering an applicant's suitability for judicial office.
- 7.3 The Board noted that the Process Working Group had been giving some preliminary thought to references in general and to the possible contribution that the judiciary might make to the Board's selection processes. The Lord President's proposal for discussions was, therefore, timely. It was agreed that the Chairing member should write to the Lord President welcoming his approach.

Action Point: Chief Executive to draft a letter for the Chairing Member to send to the Lord President

8. Civil Courts Review – Initial Response to the Scottish Government (JAB/2010/16)

- 8.1 The paper provided, as a basis for discussion, a suggested initial response to the Scottish Government's invitation, at the last meeting, for comments on the proposals in the Civil Courts Review. The proposals of most relevance to the work of the Board were those relating to specialisation and a reduction in the use of part-time judicial resources.
- 8.2 The Board agreed that its initial response should focus on these two issues. It should make clear that during the recent shrieval competition the majority of applicants interviewed indicated that it was the breadth of judicial work that attracted them to apply. They did not wish to be channelled into a particular specialism to the exclusion of all other types of cases. Flexibility to work across the full range of business was important to them. Therefore, in the Board's view, there is a risk that specialisation could be a discouraging factor to those applicants who are attracted by the broad range of judicial work, at a time when the Board is seeking to attract more applications and to encourage diversity in the range of people eligible to apply.

- 8.3 With regard to the use of part-time judicial resources, the Board did not insist that applicants should have had experience as a part-time sheriff. However, the Board has found that applicants regard such experience as valuable in gaining experience of life on the bench and in confirming whether it is for them. In addition, the Board was of the view that for Part-time Sheriffs to obtain the maximum benefit from their appointment the process of assigning them to Courts should be better managed and they should be expected to undertake the full range of types of work.
- 8.4 A further observation was that there should be more opportunities for full-time sheriffs to work part-time.
- 8.5 The Board agreed that there should be fuller discussion of these issues at the next meeting.

Action Point: Chief Executive to finalise Board's initial response to the Scottish Government.

9. Scottish Government

- 9.1 The Chairing Member welcomed Mr Colin McKay and Ms Jill Clark to the meeting.
- 9.2 Mr McKay gave a brief outline of the Making Justice Work programme, one of four programmes within the Scottish Government's Justice and Communities portfolio, drawing together the efficiency and effectiveness strands of civil and criminal justice to deliver a consistent and coherent programme of structural, system and process improvement.
- 9.3 Mr McKay also informed the Board that the arrangements for appointments to Tribunals in Scotland were currently under review.
- 9.4 On the senatorial appointments, Mr McKay informed the Board that the First Minister had decided to appoint two individuals recommended by the Board to the two current vacancies. The appointments would be announced shortly. The question of the third vacancy did not arise until July.
- 9.5 Ms Clark confirmed that the recommended individual for appointment to the office of Sheriff at Glasgow and Strathkelvin would take up post in June. Ms Clark also advised that the Board would be asked to recommend individuals for appointment to one shrieval vacancy and one part-time vacancy in the near future.
- 9.6 The Chairing Member asked Ms Clark if the flow-chart in the paper ***Judicial Appointment Process in the Scottish Government*** (JAB/2010/18) could be placed on the Board's website. Ms Clark had no objections but would wish to consult the Judicial Office for Scotland and make some minor amendments before confirming when the flow-chart would be ready for publication.

9.7 Mr McKay informed the Board that a meeting would be taking place that afternoon to agree the process for the appointment of new Board members..

9.8 The Chairing Member thanked Mr McKay and Ms Clark for their contribution.

Action Point: Scottish Government to provide the Secretary to the Board with the finalised flow-chart for publication on the Board's website.

10. Minutes of the Audit & Risk Management Committee (JAB/2010/17)

10.1 The Board noted the paper without comment.

11. Judicial Appointment Trilateral Meeting: 16th April (JAB/2010/19)

11.1 The Board noted the paper.

12. Any Other Business

13.1 The Chairing Member suggested a Board Members' lunch to take place following the next Board meeting, to mark the service of the three retiring Board Members. The Board welcomed the suggestion.

Action Point: Secretary to the Board make the arrangements for the lunch.

The meeting closed at 1400 hours.