



BOARD MEETING

DRAFT MINUTES OF THE MEETING HELD ON

MONDAY 18 APRIL 2016 at 09:30AM

THISTLE HOUSE, 91 HAYMARKET TERRACE, EDINBURGH

- Present: Sir Muir Russell, Chairing Member
Dr Michael Ewart
Mrs Alison Mitchell
Mrs Deirdre Fulton
Ms Neelam Bakshi
Sheriff Principal Pyle
Sheriff Mackie
The Hon Lord Minginish
Mr Alistair Morris
- In attendance: Mr Michael Garden, Chief Executive
Mrs Dorothy Smith, Policy Officer
Mr Michael Johns-Perring, Appointments Team Leader
- Guest: The Rt Hon Lord Carloway, Lord President (item 2 only)
- Apologies: The Rt Hon Lady Dorrian
Mr James McNeill QC
Professor Stephen Tierney
Miss Kerry Love, Secretary to the Board

1. Welcome and Apologies

1.1 The Chairing Member welcomed the Board Members to the meeting. Apologies had been received from Lady Dorrian, Mr James McNeill QC and Professor Stephen Tierney.

1.2 The Board moved to congratulate Lady Dorrian on her appointment to the office of Lord Justice Clerk. It was noted that Lady Dorrian would be sworn in on 26 April.

1.3 The Chairing Member informed the Board of Sheriff Principal Pyle's re-appointment as the Board's Sheriff Principal Member for a further 2 years to 2018. This should remain confidential until an announcement from the Judicial Office.

2. Guest: The Rt Hon Lord Carloway, Lord President

2.1 The Chairing Member welcomed the Lord President to the meeting and introductions were made. The Lord President thanked the Board for inviting him to attend the meeting.

2.2 A number of matters of mutual interest were discussed. These included forthcoming appointment rounds, the importance of appointments to rural areas and the desirability of making more judicial offices available on a salaried part-time working basis. The breadth of legal ability required of candidates was also considered, particularly taking account of an increasingly specialised profession.

2.3 The Lord President was informed of the Board's upcoming visit to the Judicial Institute. The importance of having a robust training system to help candidates commence their duties soon after appointment was recognised, as was the need for sitting judicial office holders to keep up-to-date with legal developments by attending courses throughout their careers.

2.4 The Chairing Member raised the importance of forward planning appointment rounds, to ensure the most effective use and allocation of resources. He explained that the Board had taken a number of steps to streamline its selection processes to date. It was noted that the workload of the Board was expected to increase over the coming years as more appointments are brought within its remit. The priority with which vacancies in different jurisdictions could be handled was agreed as a matter for the Board and the Lord President to explore further.

2.5 The Lord President acknowledged the importance of planning ahead, but explained that it was not always possible to anticipate every judge who may vacate office ahead of mandatory retirement. He thanked the Board for the flexibility it demonstrated in the recent Senatorial appointment round, where the number of vacancies increased mid-exercise from three to five.

2.6 The Lord President expressed his preference for filling gaps on the shrieval bench with new, salaried members of the judiciary, rather than being reliant on fee-paid or retired judges.

2.7 Conversation turned to the issue of judicial diversity. That there had been only one female applicant in the recent Senatorial appointment round was recognised as disappointing. It was hoped that more could be done to encourage women who have been unsuccessful in the past to re-apply in future competitions. It was recognised that an increase in offices available on a salaried part-time basis would help encourage those with caring responsibilities to apply.

2.8 Last, the Board and Lord President agreed that those either seeking legal qualification or who are already qualified should be made aware at as early a stage as possible in their careers of the opportunity of applying for judicial offices.

3. Minutes of the 21 March 2016 Board Meeting

3.1 The minutes of the Board Meeting were approved by the Board.

3. Matters arising from the minutes

3.2 There were no matters arising that would not be covered elsewhere in the agenda.

4. Chairing Member, Chief Executive and Other Updates

4.1 Mike Ewart reported that the appointment round to select the Chairing Member's successor had been launched on the Scottish Government's Public Appointments website and applications were sought. The Chief Executive stated that he had spoken with a number of prospective applicants enquiring about the role.

4.2 The Chief Executive reported that he had met with the President of the Young Scottish Lawyers Association (SYLA) at the Law Society of Scotland's annual conference planning meeting. It was agreed that this would be a useful contact for the Board to maintain. Alistair Morris suggested making contact with a similar Glasgow-based association, Trainee and Newly Qualified Society (TANQ).

4.3 The Chief Executive reported that an invitation had been received to attend the next meeting of the Scottish Tribunals Forum and he would make enquires as to whether they also want a Board Member to attend.. He also reported on a forthcoming tripartite meeting between officials from the Board, the Judicial Office for Scotland and the Scottish Government.

4.4 Noting that Lady Dorrian's appointment as Lord Justice Clerk would create a vacancy on the Board from 26 April, the Chairing Member informed the Board that he had advised the Lord President that the speedy appointment of her successor was highly desirable given the unexpected pressures on the Board over the coming months.

5. Senator 2016 Appointment Round: Diversity Statistics (JABS 2016 17)

5.1 The Board considered the diversity statistics from the 2016 Senator appointment round. It was agreed that the number of female applicants had been very disappointing. The Board discussed ways in which more female applicants could be encouraged to apply for high office in future and to consider possible explanations for why some previous candidates had chosen not to re-apply. There was also discussion of the nature of recent judicial vacancies and how they are described and promoted, with a view to making sure that they may appeal to as wide a range of individuals as possible.

5.2 The Board felt it would be useful to obtain up-to-date statistics from the Law Society and Faculty of Advocates on the gender profile.

Action point: Board policy officer to request statistics on gender from Law Society and Faculty of Advocates.

6. Draft 2016 Appointment Round Timetables (JABS 2016 18)

6.1 The Appointments Team Leader presented a paper seeking the Board's approval of the draft timetables for the following appointment rounds (listed by launch date):

- Sheriff Principal
- Sheriff
- Summary Sheriff

6.2 The Board was invited to discuss the candidate information to be provided to selection panels, in light of the volumes of applications expected. It agreed that

selection panels should have access to all of the information contained in application forms, and that the Secretariat should improve the navigability of the format in which such information is presented.

6.3 After careful consideration, the Board approved the draft timetables, as presented.

Action point: Secretariat to look into improving the format of the documentation provided to selection panels.

7. Legal Advice on the Board's Record Management Responsibility (JABS 2016 19)

7.1 The Policy Officer presented a paper seeking the Board's agreement to a course of action in response to legal advice received from the Board's legal adviser, Brodies LLP, with regard to the Board's responsibility for records management.

7.2 The Board noted the recent correspondence with the Keeper of the Records with regard to the Board's Records Management Plan, in which the question of whether the Board held responsibility for those records which had been produced by its non-statutory predecessor body of the same name and function. The former Board operated between 2002 and 2009. It was dissolved on the establishment of the current Board in 2009 following the Courts Reform (Scotland) Act 2008. The Board further noted that it had previously received advice from the Scottish Government indicating that the Board was responsible for managing the records of its predecessor body.

7.3 The Board agreed to the recommendation outlined in the paper that the Board should take responsibility for the records of its predecessor body and, as necessary, place them under the guardianship of the National Records of Scotland. In making its decision, the Board considered that this course of action would allow information to be kept together.

7.4 The Board noted that it is a legally distinct entity from the Board that operated between 2002 and 2009, and made its agreement, as set out at 7.3, on the understanding that taking responsibility for the former Board's records could not be considered analogous to it taking responsibility for the former Board's actions. Last, the Board agreed that its own records, when they pass beyond current use, should be handled in the same manner as those records created by its predecessor body.

Action point: Policy Officer to take forward the Board's agreed course of action described at 7.3

8. Any other business

8.1 The Chief Executive reminded Board Members that there would be meetings of the Audit and Risk Management Committee (ARMC) and the 2016 Sheriff appointment round selection panel immediately following the Board. Board Members noted that the ARMC would be considering a draft of the Board's 2015/16 Annual Report, due for sign-off at the next Board Meeting.

8.2 The Policy Officer invited Board Members to represent the Board at forthcoming outreach events. It was agreed that such events should be held in Aberdeen, Edinburgh and Glasgow. New Board Members were invited to observe the events in order to gain an understanding of how they are run.

Action point: Policy Officer to organise outreach event dates, timing and venues and co-ordinate with Board Members who are to present and observe at each event.

9. Updated Forward Look

9.1 The Board noted the forward look with some revisions.

The meeting closed at 12.30