



## **BOARD MEETING**

### **MINUTES OF THE MEETING HELD ON**

**MONDAY 21<sup>ST</sup> NOVEMBER 2016 at 10:00AM**

**THISTLE HOUSE, 91 HAYMARKET TERRACE, EDINBURGH**

Present: Dr Michael Ewart, Temporary Chairing Member  
Mrs Alison Mitchell  
Mrs Deirdre Fulton  
Professor Stephen Tierney  
Ms Neelam Bakshi  
The Hon Lady Wise  
The Hon Lord Minginish  
Sheriff Principal Pyle  
Sheriff Mackie  
Mr James McNeill QC  
Mr Alistair Morris

In attendance: Mr Michael Garden, Chief Executive  
Miss Kerry Love, Secretary to the Board  
Miss Ashleigh Meikle, Appointments Team Leader  
Miss Rachel Craig, Administrator

### **1. Welcome and Apologies**

1.1 Dr Ewart welcomed the Board Members to the meeting.

### **2. Minutes of the 17<sup>th</sup> October 2016 Board Meeting**

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

### **3. Matters arising from the minutes**

#### Feedback from the last meeting of the Audit and Risk Management Committee Meeting

3.1 The Committee considered a mid-year budget report. It agreed that there was now a requirement to have more robust budget forecasting for the advent of tribunal appointment. The Committee required more clarity on the re-imbursment arrangements for these exercises, and the point in the financial year that reimbursement would take place. The Committee noted there had been a number of

ad hoc exercises this year, and asked that assurance be sought from the SG that any future request would contain an assurance that it will meet any additional funding that arises. The Committee expressed concern about the number of requests to run ad hoc exercises. The Board asked the Secretariat to start providing a monthly finance report at each Board Meeting.

**Action Point: Miss Kerry Love to provide a finance report for future Board Meetings, starting from January 2017.**

#### **4. Chairing Member and Chief Executive Updates**

4.1 Dr Ewart informed the Board that Sheriff Mackie would be handing over chairing responsibilities for the DSG to Lady Wise. Dr Ewart thanked Sheriff Mackie for his service in the role.

4.2 Mr Garden provided the Board with the following updates:

- The Senator exercise has now closed and ten applications were received. Of these only one applicant is female. The sift meeting will take place on Thursday 1<sup>st</sup> December 2016.
- The Sheriff exercise has now closed and 31 applications were received. Of these, nine applicants are female. The sift meeting will take place on Thursday 15<sup>th</sup> December 2016.
- The advert for the Chamber President of the First-Tier Tribunal, Tax Chamber appointment round closes today.
- For the PRS/LA exercise, on present plans 82 vacancies in total are expected: 51 legal and 31 ordinary members. The pre-planning meeting for this exercise will take place on Wednesday 23<sup>rd</sup> November 2016. The Board agreed to deploy Board Assistants and that they should be heavily involved in the exercise.
- Mr Garden thanked Mrs Deirdre Fulton for her contribution and support in the recruitment exercise for a B2 to replace Mrs Smith in which Mr John Wallace had been successful. He has been invited to attend the December Board meeting and will take up post on 4<sup>th</sup> January 2017.

#### **5. Summary Sheriff 2016: Board Decision Meeting (JABS 2016 48)**

5.1 The Board considered the interview panel's report, in compliance with the Judiciary and Courts (Scotland) Act 2008, with regard to the selection for recommendation of suitable applicants for the office of Summary Sheriff. The Board agreed the applicants to be recommended to the First Minister.

5.2 The Board thanked the Secretariat for their support during the competition.

#### **6. Conduct and Good Character Guidance (JABS 2016 49)**

6.1 The Board discussed paragraph 18 – Formal caution. It was noted that the process of formal caution is taken from English law, and that Scots law and practice may be different. COPFS will be able to confirm what formal cautions and police and fiscal warnings involve, particularly in regards to admission of guilt.

6.2 The Board discussed paragraph 23&24 – Speeding. The Board posed the question of whether they would like to follow the JAC and have a cut-off point of penalty points that would potentially result in an applicant being disqualified from a competition. They agreed to reword paragraph 23 and invited the QAG to review this at a future meeting.

6.3 The Board discussed how potential conflicts of interest with other posts held should be dealt with when making recommendations for appointment, noting that they could be different for each tribunal appointment. It agreed that a line should be added to future Guidance Notes, advising applicants that it is their responsibility to check with relevant parties if there are any potential conflicts with current or proposed posts held before applying.

6.4 Secretariat to update the guidance using track changes and recirculate to the Board for agreement.

**Action Point: Secretariat to contact COPFS to ascertain what formal cautions and police and fiscal warnings involve, particularly in regards to admission of guilt. Paragraph 23 - Secretariat to re-word the beginning of the sentence to ‘A serious offence and/or a pattern of repeated offences’. Secretariat to update using track changes and recirculate to the Board for agreement before putting it on the website.**

**Action Point: QAG to discuss penalty points and any merit of having a cut-off point at a future meeting.**

**Action Point: Secretariat to insert a line in future Guidance Notes advising applicants that it is their responsibility to check with relevant parties if there are any potential conflicts with current posts or proposed held before applying.**

## **7. Any other Business**

7.1 Following a meeting with the Board’s Chief Executive and Policy Officer earlier this year. The Board has been approached by Women in Law Scotland about the possibility of running a joint event with them during the summer of 2017. The Board asked the Secretariat to obtain more information about the proposed content of the event and what the outcomes are. It is unlikely that the Board would want to commit to a joint event, but may be willing to participate, for example by providing a speaker.

7.2 Mrs Alison Mitchell gave an update on the recruitment of the JABS Board Chairing Member. Public Appointments are aiming to publish the advert within the next week or so. She asked the Secretariat to send a link to the advert to Members when it goes live.

7.3 Mr Michael Garden informed the Board that Mrs Deirdre Fulton would be involved in Supreme Court recruitment exercises that will take place over the next 2-3 years.

**Action Point: Secretariat to obtain more information about the proposed content of the Women in Law Scotland event and what the outcomes are**

**Action Point: Secretariat to send the link to the Chair advert to the Board once the advert is live.**