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Glynis McKeand  
Secretary to the Sheriff Court Rules Council  
Scottish Executive Justice Department  
St Andrew's House  
Regent Road  
Edinburgh  
EH1 3DG

23 November 2004

Dear Ms McKeand

### Consultation on use of IT in the Sheriff Court

Thank you for inviting us to comment on the proposals contained in your recent consultation paper and for allowing us an extension to the original response date.

The Scottish Legal Aid Board has a strong interest in the development of efficient and effective means of sharing information and documents between court users and the agencies involved in the administration of the civil justice system. In turn, such efficiency gains could lead to improved cost-effectiveness in the conduct of civil litigation that would be of benefit to clients, solicitors and the wider civil justice system.

We are currently developing our own Legal Aid Online system to enable us to interact electronically with solicitors for the purposes of receiving and processing applications for legal aid and the assessment and payment of accounts. We believe that the proposals contained in your consultation are consistent with the development of such systems and present opportunities for wider electronic interaction.

Our experience tells us that user acceptance is key to the successful development and implementation of such projects. We have already secured the active participation of many solicitors in the initial stages of our Legal Aid Online project and are keen to capitalise on the synergy between our parallel developments to maximise early interest amongst practitioners.

We do not wish to comment on all of the questions raised in your paper, but would wish to make the following observations:

#### 3rd recommendation

The use of the web-based system is undoubtedly the best choice. It would be our opinion that the use of the web-based system would provide a better basis for secure transmission and for authentication of the parties.

#### 6th recommendation

We should wholeheartedly support the use of secure electronic signatures, and offer to work with the Scottish Courts Service (and others), for our mutual benefit, to jointly develop authentication processes, procedures and practice.

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## **7th recommendation**

We would expect significant advantage from party access to case related information. We can also see situations in which the Board may itself be regarded as having a legitimate interest in accessing such information, although at present, we would not be defined as a party to the action as such. For example, where an unassisted party lodges a motion under section 19 of the Legal Aid (Scotland) act 1986 to recover their costs from the legal aid fund, the Board would derive great benefit from direct access to the process.

Looking further ahead, the direct availability of such information to our own staff would be of great assistance, particularly as regards the collection of supporting documentation in civil cases. This would be relevant for

- The assessment of initial applications for legal aid and subsequent associated applications, for example, for sanction to employ experts or counsel
- The assessment of accounts at the conclusion of the case
- Clarification of issues relating to expenses and/or property recovered or preserved for the purposes of “clawback”.

We suspect that maximum advantage would come when the project encompassed productions, although the electronic availability of interlocutors and other parts of the process would be a very useful starting point.

The issue of security is one close to our hearts, and is one that we have had to face up to in our own Legal Aid Online project. Without going into great technical detail, we believe that the use of a Secure Socket Layer (SSL), providing 128 bit encryption, is the foundation of secure transmission of data, particularly when coupled with improved authentication of parties (digital signatures).

In relation to the matter of employees changing firms, this is an issue that we believe we have resolved in Legal Aid Online, and would be happy to discuss further.

### **Other points**

We do not see the proposals in the paper as having any particular impact on the cost of legal aid. However, a shift from paper-based to electronic preparation and submission of documents would require a review of various elements of the current fees tables, both judicial and legal aid.

There seems to be a significant opportunity to ensure congruence of technology in governmental parties seeking to interact with legal practitioners. To ensure credibility of our respective projects, we would seek early discussion on developing congruent platforms and practices.

If you wish to discuss any of these matters further, please contact Andrew Menzies, Director of Corporate Services, or Alistair Stocks, Project Manager for Legal Aid Online at the address above.

Yours sincerely



Lindsay Montgomery  
Chief Executive