

MINUTES

SCOTTISH COURTS AND TRIBUNALS SERVICE BOARD MEETING: MONDAY 1 FEBRUARY 2016, PARLIAMENT HOUSE, EDINBURGH

Present: Rt Hon Lord Carloway, Lord President (Chair)
Eric McQueen
Johan Findlay OBE JP
Dr Kirsty Hood QC
Rt Hon Lady Smith
Joe Al-Gharabally
Simon Catto
Sheriff Grant McCulloch
Sheriff Principal Duncan Murray
Colonel David McIlroy
Sheriff Iona McDonald

Attended: Noel Rehfisch, Corporate Secretary, SCTS
Tim Barraclough, Director Modernisation and Innovation, SCTS (Item 4)
Margaret Peattie, Secretariat Business Manager, SCTS, (Minutes)

Apologies: Professor Hugh MacDougall
Dr Joe Morrow QC

The Chair welcomed Colonel David McIlroy to his first meeting following his appointment as non-Executive member of the SCTS Board.

1. Minutes of the SCTS Board Meeting of 7 December 2015

1.1 The Minutes of the last meeting were approved.

2. Matters Arising

2.1 There were no outstanding actions.

Kirkcaldy Court Buildings

2.2 The Executive had now completed its assessment of risk management and mitigation in relation to Kirkcaldy court buildings. A report would be submitted to the SCTS Estates, Health & Safety, Fire and Security Committee later this month.

SCTS Board Membership

2.3 The Board heard that the process to appoint a new Lord Justice Clerk had begun. It was hoped that an appointment would be made by the end of March.

3. Finance Report (SCTS/Feb16/01 and SCTS/Feb16/02)

Financial Results and Forecast 2015-16

3.1 The report on financial performance to the end of December 2015 was received. All adjustments agreed with the Government as part of its Autumn and Spring budget

revisions had been transferred to SCTS in December, allowing the Executive to review the final full year budget and forecast outturn.

3.2 The Executive would, where possible, minimise any likely underspend by bringing forward planned expenditure on building maintenance and IT projects from 2016-17 to reduce some of the pressure on next year's budget.

Budget Bill 2016-17

3.3 An update on the Government's Budget Bill and the outcome for SCTS was discussed. The Board's strategic approach to the spending review had been successful and had given focus to the Executive's budget discussions with the Government. There were still significant challenges for the SCTS budget next year, but this outcome would ensure that current performance and completion of civil court reforms would be maintained.

4. Evidence and Procedure Review Report (SCTS/Feb16/05)

4.1 In March last year a Report on the *Review of Rules of Evidence and Criminal Trial Procedure* was presented to the Board. At that time it was agreed by the Justice Board that further work be undertaken to test some of the ideas set out in the Review Report.

4.2 This subsequent Report: *Evidence and Procedure Review: Further Considerations* setting out the work carried out since March last year, was received by the Board. Members heard that the Report had been submitted to the Justice Board last month, when it had been agreed that SCTS should publish the Report and that a cross-justice summary justice digital re-design programme (led by SCTS) be set up. The Programme Board would oversee the work necessary to develop further the reform propositions.

4.3 In discussion members recognised that the Report lacked an assessment of risk and full cost. It was noted that, in agreeing next steps, the Justice Board had committed to putting in place a programme of work to develop two different workstreams: summary justice transformation and the approach to the evidence of children and vulnerable witnesses. It may be that the ultimate proposals would be split into the two different documents.

4.4 A programme mandate would be drafted for approval by the Justice Board. Any decision to take forward proposals arising from the next stage of development was for the Government. If it decided to take this forward into legislation, the proposals would be subject to public consultation.

4.5 The Board endorsed the approach taken by the Justice Board and **agreed** that the Report should be published on the SCTS website. Arrangements would be put in place to ensure that interested parties were suitably engaged in advance of publication, as was the case when the Review Report was issued last year. It **agreed** that the cross-justice summary justice digital re-design programme should be led by SCTS.

5. Parliament House Update (SCTS/Feb16/03)

5.1 *The record of this discussion is considered confidential and exempt from publication.*

6. Audit Scotland's Proposals for SCTS Board Meetings (SCTS/Feb16/04)

6.1 In its Annual Audit Report presented to the Audit & Risk Committee in August last year, Audit Scotland proposed that the Board should consider holding at least one

meeting in public and making Board papers publicly available. This was one of the suggested steps that Boards should consider, referred to in the Government's "*On Board*" guidance for members of public bodies, in order to ensure they demonstrated openness and transparency in their decision-making.

6.2 The SCTS Board already met the majority of the recommendations through publication on the SCTS website of minutes of Board and Committee meetings. Documents, such as the SCTS Corporate Plan, SCTS Business Plan and its Annual Report and Accounts, were routinely published and communicated to a wide range of interested parties. Consultations on matters of public interest, such as *Shaping Scotland's Court Services* and the *Evidence and Procedure Review*, were published and engagement included public meetings held across the country to discuss issues of general interest.

6.3 The Board **agreed** that, as a strategic Board, it would not hold its meetings in public but would give further consideration to the possibility of holding an annual open meeting.

7. The Scotland Bill – Devolution of Reserved Tribunals

7.1 The Scotland Bill was making progress. The UK and Scottish Governments were considering a draft Order in Council (Order) prepared by the Department for Business, Innovation and Skills, which sets out the framework for the devolution of the Employment Tribunals to Scotland. The Order, made under Clause 37 of the Bill, seeks to implement the terms of the Smith Commission and maintain the integrity of the tribunal system. Discussion on the Order would take place with stakeholder groups, including users of the tribunal system and the judiciary. A workshop involving SCTS, Scottish Government, Ministry of Justice and Her Majesty's Courts and Tribunals Service officials had taken place last week to agree the feasibility work required to assess the practical transfer of reserved Tribunals.

7.2 The first meeting of the Judicial Working Group would take place shortly. Lady Smith would be a member of that group. Dr Morrow (as President of the Mental Health Tribunal for Scotland) had been invited to join. Officials from the Judicial Office for Scotland, the Ministry of Justice and the Scottish Government would also attend these meetings.

7.3 The devolution of reserved tribunals would be complex. Careful consideration of the work to deliver this significant change would be required, so that it does not impact adversely on the current work plan for the existing devolved tribunals.

8. Any Other Business

Workshop Session for the March Meeting

8.1 Following the next meeting, Catherine Dyer, Crown Agent and CEO of the Crown Office and Procurator Fiscal Service, would give a presentation on Changes in Prosecution and Future Challenges.

June Meeting of the Board

8.2 It was agreed that the June Board meeting would take place in Inverness with Board members visiting the courts in Tain, Elgin and Inverness in the morning. The Corporate Secretary would bring a draft programme to the May meeting for approval.

9. Papers for Scrutiny/Exception Reporting Only

9.1 The following papers had been circulated for scrutiny:

- Court Programming Update
- ICT programme Milestones and High Level Risks
- the SCTS Decision Tracker
- Draft Minutes of the SCTS People Committee meeting in November

No matters were raised by exception.

9. Date of the Next Meeting

9.1 Monday 21 March 2016 in Parliament House.

SCTS Board and Audit & Risk Committee Joint Workshop Session on Corporate Risk

10.1 SCTS Executive Directors, Stephen Humphreys, Richard Maconachie (Chief Finance Officer) and David Fraser (Acting Chief Operations Officer) joined Board/Audit & Risk Committee members for a workshop session on corporate risk.

10.2 The workshop reviewed the Corporate Risks currently identified and managed, taking a step back to consider them as a whole and looking forward to identify where SCTS plans or those of other organisations may have an impact on them, whether positive or negative.

10.3 Discussion groups considered whether the right risks had been identified and whether any significant corporate risks had not been captured within the Register. The majority of the risks detailed in the Corporate Risk Register were still considered to be valid. Members suggested that more focus should be given to cyber security, partnership working and continuing to manage the level and pace of change across SCTS. The format and content of the Corporate Risk Register would be updated based on the output of the workshop.

Scottish Courts and Tribunals Service