

BOARD MEETING MINUTES
Monday 17 June 2024
9:15 am to 15:30 pm
Thistle House

Present:

Dr Lindsay Montgomery CBE, Chairing Member
Mrs Liz Burnley CBE (by VC)
Mr Paul Cackette, CBE
Mrs Wilma Canning
Sheriff Principal Kate Dowdalls, KC (joined the meeting by VC at agenda item 6.5)
President May Dunsmuir
Mr Paul Gray (by VC)
The Hon. Lady Shona Haldane, KC
Ms Emma Marriott
Dr Fiona McLean
Mr Gareth Morgan, QPM
Mr Peter Murray
The Hon. Lord Robert Weir, KC
Sheriff David Young, KC

Attendees:

Ms Paula Stevenson, Chief Executive
Billy Love, Head of Operations
Mr Stuart Scott, Digital and Continuous Improvement Manager (DCIM)
Mrs Julie Tarbet, Appointments Manager
Ms Deirdre Fulton, Lay Appointment Adviser (for agenda item 9 only)

Apologies:

Mr Jonathan Barne, KC

Pre meeting

The Chief Executive had a private discussion about staffing with the Board before the start of the meeting.

1. Welcome

1.1 The Chairing Member welcomed everyone to the meeting and noted the apologies.

1.2 There were no declarations of interest raised by Board members.

2. Business from previous meeting

2.1 Minutes of the 15 April 2024 meeting

2.1.1 The Board approved the minutes of the previous meeting with one minor amendment.

2.2 Action Tracker

2.2.1 The Chief Executive updated the Board on the positive progress on completing the actions in the Tracker. A number of items were now covered in papers that would be discussed later in the meeting. The Board were content with the Tracker.

3. Chairing Member Update

3.1 The Chairing Member updated the Board on a range of matters, including the progress to recruit a new legal Board member, who will replace Cat Mclean who had stood down from the Board and ongoing competition panel planning for 2024. He also confirmed that the Lord President (LP) had indicated his intention to stand down in February 2025. Under terms of the legislation, the Chairing Member, and a further lay member of the Board nominated by him, will be asked to participate in the recruitment panel once it is convened by the First Minister.

4. Chief Executive Update

4.1 The Board noted the contents of the Chief Executive's report, including the finance update. JABS is in discussions with the Scottish Government about the arrangements for the forthcoming tribunal and shrieval recruitment rounds. The SG is continuing to consider issues around the status and obligations of Board members.

5. Corporate

5.1 Annual Report - draft

5.1.1 The Chief Executive provided the Board with a first draft of the Annual Report. She explained the changes in the format including a more detailed breakdown of expenditure in the finance section. Members were asked to review and provide comments. A further draft will be provided at the Board meeting in August, with the intention that it will be laid in Parliament in September 2024.

Action point 1: Board members to send the Chief Executive any suggestions on the Annual Report by 7 July 2024 to allow for a final draft to be prepared for the August Board meeting.

5.2 Code of Conduct – update

5.2.1 The Chief Executive talked to the paper and provided an update on discussions with the Scottish Government in relation to the Code of Conduct and the position of judicial members of the Board. The Chief Executive will provide further updates until the matter is brought to a conclusion. The Board were content with the progress.

5.2.2 We have now received information from the Standards Commissioner regarding the treatment of rental income under the Code of Conduct. Such income does not need to be registered, only remuneration for work.

5.3 Consumer duties legislation

5.3.1 The Chief Executive gave an overview of the paper which was discussed by the Board. The Board was of the view that requirements of this legislation did not appear to apply; JABS legislation makes clear that the 'consumer' is Scottish Ministers to whom we make recommendations. This decision should be included on the risk register, outlining why this legislation was not applicable to the work of the Board.

Action point 2: The Chief Executive to add the Board's decision on the consumer duties legislation to the risk register.

6 Corporate

6.1 Records Management update

6.1.1 The HoO provided a brief overview of the paper. He updated the Board on the progress on the substantial work required to fully implement the records management plan and steps to ensure all records were being stored and saved appropriately. The Board requested to be kept informed on progress and asked for a paper setting out details of how specific records would be dealt with. The HoO will provide a further update at the October Board meeting.

Action point 3: HoO to provide a further update and a paper on the records retention policy at the October Board meeting.

6.2 Merit policy

6.2.1 The Chief Executive spoke to the paper on merit which had been developed following the discussion at the April Board meeting. The Board discussed the policy in detail. The Chairing Member agreed to undertake to refine the overarching statement and wording in relation to the purpose behind the policy. The Board were content on the direction of travel for developing the Merit policy.

Action point 4: The Chairing Member to review the Merit policy and share with the Board for their comments at a future Board meeting.

6.3 Eligibility criteria

6.3.1 The Chief Executive introduced the paper which summarised the position on a number of eligibility issues which the Board had considered over the last few months. She confirmed that the advice had been received from senior counsel. It was agreed that further discussion with Scottish Government on the issues raised would be appropriate. The Board agreed that where appropriate further guidance should be added to the JABS website to assist potential applicants.

Action point 5: The Chief Executive will prepare a draft letter to SG for the Board on eligibility issues. The BMU will consider what additional guidance can be provided via the JABS website for applicants.

6.4 Appointments

6.4.1 The Chief Executive gave a brief overview of the paper on the legal advice received on appointments. The Board noted the update.

6.5 Reserves policy – update

6.5.1 The HoO introduced the paper and explained that the Board had agreed its Reserves Policy in March 2023, but in light of issues arising from recent competitions, it was appropriate for this to be reviewed.

6.5.2 The Board discussed the complexity of reserve lists for judicial roles and the benefits and disadvantages of such a list. The Board also considered the issues of scale (no. of vacancies), location of roles and nature of appointment (FTE, PTE or floating) and specialisms.

6.5.3 It was agreed that any reserve policy will need to be clear and should not inadvertently provide an advantage to those applying for roles advertised. The reserve list approach should be considered and clearly set out in the advert issued for any recruitment round, including if it had been decided there would be no reserve list held.

6.5.4 The Board agreed that in principle a reserve list would not be held for smaller shrieval competitions but that further engagement with the Sheriffs Principal and JO about reserve lists was required before finalising any updates to the policy.

6.5.5 The Board were content with the approach outlined for Tribunal Competitions.

6.6 Social and other Media checks

6.6.1 The DCIM introduced the paper and explained that it incorporated the Board's comments from a previous meeting. The Board agreed that there was value in a third-party organisation doing a media character and conduct check on candidates selected for interview and were content with the direction of travel with developing the policy.

Action point 6: The DCIM to refine the social and other media checks policy further and discussions to be had with Scottish Government regarding the costs of this new approach.

Action point 7: Discussions will be had with the legal professional bodies about social and other media checks.

6.7 Standing Orders update

6.7.1 It had not been possible to complete this paper in time for the Board meeting and it will be issued by correspondence in due course.

7. Current and Future Competitions

7.1 Current and upcoming rounds

7.1.1 The HoO gave a brief overview of the paper and details on current and upcoming rounds. The Board noted the paper and were content.

7.1.2 The senator recommendations had been accepted, announced and four out of the five judges had already been installed.

7.2 Judicial Feedback

7.2.1 The Chairing Member informed the Board that meetings will be arranged with the Lord President and the Sheriffs Principal. This will provide useful opportunities to discuss a range of issues and will also allow JABS to gain a better understanding of the likely needs of Judiciary over both the short and longer term. The Board were content with the proposed approach.

8. Diversity Action Plan

8.1 The Chief Executive spoke to the paper which covered the Strathclyde Think Tank event, the Judicial Appointments Diversity Reference Group meeting, and the Diversity report.

8.2 The new Judicial Appointments Diversity Reference Group successfully held its first meeting on 7 May 2024 and the intention is that a subgroup will be formed to specifically look at data and statistics on the Scottish population, judiciary, and legal professions.

8.3 A final draft of the diversity report is in preparation and will be shared with Board members later in the month. The Board noted the contents of the paper.

9. Programme for Change

9.1 Consultation and References

9.1.1 Deirdre Fulton introduced the paper providing the Board with information on the existing JABS approach to consultation, providing comparisons to the approaches taken by other organisations. DF emphasised the importance that JAC and NIJAC placed on the feedback they received from both consultations and references/independent assessments.

9.1.2 The Board discussed the approach to consultations and 'independent assessments' and stressed the importance of having clear guidance for consultees and applicants.

9.1.3 The Board were keen to ensure there was sufficient clarity on what information is being sought and the need for confidentiality and objectivity in any approach and that any information provided is evidence based. The Board agreed the direction of travel.

Action point 8: DF and the Chairing Member will look at these consultations and independent assessments in more detail and provide a further paper for the board.

9.2 Programme for Change update

9.2.1 Deirdre Fulton spoke to the paper providing an update on the progress of the Programme for Change (PFC) work. She explained that PFC is at the information gathering stage of the project.

9.2.1 As part of our information gathering, a feedback survey will be sent to interviewees for the Sheriff 2024 round and focus groups will be held over the summer period. This feedback will help to inform the development of key policies to underpin the appointment process and there will also be a consultation exercise with key stakeholders. The Board noted the update and were content.

10. Any Other Competent Business

10.1 There were no items raised by Board members.

11. Date of Next Meeting

11.1 The next meeting is on 19 August 2024.