

**Meeting of the Northern Ireland Legal Services Commission held
on THURSDAY 19 MARCH 2009 at 9.30am, Board Room,
Waterfront Plaza**

MINUTES

Present: Jim Daniell (Chairman)
Fiona Donnelly
Joe Donnelly
Breidge Gadd
Wilson Matthews
Miceal McCoy
Gillian McGaughey
Hilary McCartan

NILSC:

Gerry Crossan	Chief Executive
Theresa Donaldson	Director Policy & Service Development
Linda Norris	Interim Change Manager
Drusilla Hawthorne	Principal Legal Adviser
Jill Herron	Secretary to the Board
Rose Jellie	Personal Secretary to Chairman and Chief Executive

In attendance: Paul Andrews, NICtS

09/31 Apologies & Declaration of Board Members Interests

Les Allamby
Jeremy Harbison
Ronnie Spence

Lesley Johnston, Director of Corporate Services

09/32 MINUTES of 19 February 2009 Board Meeting

32.1 Law Society JR – A final letter was awaited from HM Treasury before the Commission could write to the Law Society on this matter.

09/33 Action Point Report and matters arising from the Minutes of 19 February 2009

- 33.1 Budget – Item no 08/85 from June 2008, removal of action point was recommended.
- 33.2 IS/IT Upgrade – It was reported that the development of the IS/IT strategy was progressing with further reports to GPC in the first instance.
- 33.3 Contracting and Procedures – A meeting had taken place with the NICtS, the Commission would now write to the Law Centre and provide an update to the next AJC.
- 33.4 Freeing Order Proceedings – A letter had issued to the Law Society and a response was awaited.

09/34 Financial Performance – Summary Report

- 34.1 Funding - The Chief Executive reported that funding had been secured to the year end. Overtime had been approved to ensure that the additional funding secured was utilised as intended. The Commission, to the year end, was in a normal cash management situation. NICtS confirmed that good progress was being made in the assessment of VHCC's and that the estimated spend was also on course to the year end.
- 34.2 Occupation Costs – The Chief Executive reported that the positive variance in occupation costs was largely due to the delay in implementing changes to the office layout. The Board asked if there was sufficient office space within the existing accommodation both now and in the future. The Interim Change Manager confirmed that, with some readjustment, current and future accommodation requirements could be met.
- 34.3 Grant-In-Aid – The Chief Executive reported that the Commission was operating within its GIA provision and that there was sufficient IS/IT provision for 09/10.

Breidge Gadd joined the meeting at Item 34.1

09/35 Funding for 2008/09 and CSR Period and Options for Savings

- 35.1 NICtS reported on a meeting with Treasury on 18 March 2009. Following those discussions, NICtS was now writing to the Treasury to finalise the position. NICtS reported that Treasury had recognised the funding situation and were considering this against a devolution background. The next formal review stage would be the winter supplementary process in November 2009.
- 35.2 Assembly Executive Review Committee – The Chairman reported on his and the Chief Executive's attendance at the AERC to provide oral evidence. The NICtS had also attended separately to give evidence. The Chairman advised that questioning had largely been around clarity of the budgeting process for legal aid, with particular interest in the next CSR period. The Chairman considered that the AERC understood that if the Commission continued to work to the baseline of £65m, despite making savings, the legal aid budget would be seriously under funded. The AERC had now followed up the oral evidence session by writing to both the Commission and NICtS with supplementary questions. NICtS advised

that in presenting their evidence, they had confirmed that bringing the current legal aid bill of £80m down to £65m could not be achieved in the short term.

Miceal McCoy joined the meeting at Item 32.5.

09/36 Draft Business Plan 2009/10 (Version 2)

36.1 The Chief Executive introduced the second draft which now incorporated the Board's suggestions from version one. It was agreed that Commissioners would further consider this draft and a final draft would be brought to the April Board meeting.

ACTION: A copy of the draft Business Plan to be sent to all Commissioners electronically.

The final version of the Business Plan to be ratified at the April Board meeting.

09/37 Annual Report 2007/08

37.1 Following discussion, the Chief Executive was asked to bring a further draft to the April Board meeting. The Board confirmed that it welcomed the inclusion of case studies to better inform the reader about legal aid but asked for the concept to be developed further.

ACTION: A copy of the latest draft to be sent to all Commissioners electronically.

A further version of the annual report 2007/08 to be brought to the April Board meeting.

09/38 Timetable for Publishing Annual Report and Accounts

38.1 The Chief Executive introduced the paper and reported that 2003/04 and 2004/05 accounts had been laid.

38.2 Statement on Internal Control 2005/06 – The Chief Executive reported that the NAO's Comptroller and Auditor General 2008 report had noted that the Commission's accounts for 2003-04 and 2004-05 had been qualified; one of the issues being the misunderstanding of the approval required to change the method of payment to Commissioners. The same qualification would apply to the 2005/06 accounts and the corresponding draft Statement on Internal Control was attached for Commissioners' information. The Chief Executive also reported that the process of recoupment had commenced for any cases of overpayment.

38.3 The Chairman advised that, while this situation had arisen prior to his appointment, he considered it important that Commissioners carefully considered the proposed wording. Following discussion, the Statement on Internal Control was agreed, subject to minor amendments. The timetable for publication was noted.

ACTION: The revised Statement on Internal Control to be provided to the Finance Section.

09/39 Draft Counter Fraud Strategy

39.1 The Draft Counter Fraud Strategy had been endorsed at GPC and was now submitted for ratification by the Board. The Chief Executive reported that he had recently met with the NIAO and he considered that they now had a more informed understanding of the controls in place regarding over and under payments within the Commission i.e. that they now appreciated that limitation of scope could not be applied to criminal legal aid. Previous accounts had been qualified in relation to fraud because of the limitation of scope and the Chief Executive was now framing additional assurances to the NIAO in the anticipation that future accounts would not be qualified. The Board congratulated the Chief Executive on his work with the NIAO. The Counter Fraud Strategy was approved.

ACTION: The Board agreed adoption of the Counter Fraud Strategy.

09/40 Chief Executive Report

- 40.1 Progress on Business Plan 2008/09 – The resourcing difficulties were noted and the Board commended staff on the achievement of performance targets to date.
- 40.2 Risk Management - Departmental risk registers were being reviewed in collaboration with NICtS in respect of shared risks. The TMT were working through the corporate risk register and reports would be presented to the AJC.
- 40.3 Financial Reporting – Matters covered at Item 09/34.
- 40.4 Transformation Programme – HR, Delivery Plan - HR Strategy – The update report was noted. The Board was advised of the concern noted at GPC that the Workforce Plan had not moved forward as quickly as anticipated.
- 40.5 Culture Change Project – The draft action plan was to be discussed by the TMT (meeting of 18 March 2009 had to be rescheduled due to sick leave). A working draft would be presented to the April GPC.
- 40.6 Pensions Update – To be discussed under AOB.
- 40.7 Complaints/FOI Enquiries/Ministerial Enquiries:
 - 40.7.1 Complaints – Following a finding of mal-administration by the Parliamentary Ombudsman, the Chief Executive advised that a compensatory payment would be made to the assisted person and letters of apology would issue.
 - 40.7.2 Parliamentary Questions – It was anticipated these would be likely to increase with devolution which would increase the workload within the Chief Executive's Office. This would be considered in the review of the Office.
 - 40.7.3 FOI – The Board was advised that the Commission's handling procedures were being reviewed by the Information Commissioner's Office; the review was being received positively as a means of enhancing the procedures. The Board re-emphasised the importance of responding to FOI enquiries within statutory requirements. The Board asked for the issue of complaints and wider correspondence handling to be remitted to the GPC.

ACTION: The issues of correspondence and complaints handling to be remitted to GPC for discussion.

40.8 HR – Reduced Hours Working – The Board noted the need for a standard approach to the application of the policy across the organisation and asked for the application of the policy to be remitted to the GPC.

ACTION: The reduced hours working policy to be referred back to the GPC.

09/41 Devolution of Justice

41.1 The Chairman introduced his paper ‘Reviews in preparation for Devolution’. The Chairman advised there would be three strands to the exercise:

- (a) Due Diligence
- (b) Structural Arrangements for the Delivery of Legal Aid
- (c) Strategic Review

41.2 The Chairman advised that the governance arrangements for the review would involve Commissioners and outlined the proposed communication strategy. The Board agreed to the proposed way forward as set out in the Chairman’s paper:

ACTION: The Chairman to contact the Chairs of the Committees regarding governance arrangements.

The Chairman to meet with staff and other stakeholders to inform them of the reviews.

09/42 Expert Witnesses

42.1 The Board noted that a meeting was taking place today with Mr Justice Gillen and that the first meeting of the steering group would take place on 23 March 2009.

42.2 Delegated Authority for the Granting of and Payment for Civil Legal Aid - A draft discussion paper was presented. It was agreed the discussion paper should go to consultation and then be brought back to the Board for consideration.

ACTION: Discussion paper to be progressed for consultation purposes.

09/43 Report from Committee Chairs on Issues and Matters Requiring Decision within the next few weeks and Risks

43.1 Access to Justice Committee Report – including update on Civil Fees – The Director of Policy & Service Development introduced the paper in the absence of the Chair of the Committee and highlighted the following:

- Service Delivery – The issue of the accuracy of management information had been highlighted. There was satisfaction that business was being maintained and the Committee was pleased with the efforts being made by staff.
- Criminal – Expert Witness – An update was provided from the Criminal Legal Aid Working Group
- Delivery Plan – There had been a successful and informative visit from Colin Stutt (E&W). A lot of work was going on in the margins with NICtS.
- Expert Witnesses – A consultant had been appointed to take forward this work.

The Board acknowledged the work that was being progressed and recorded its thanks to the staff involved.

- 43.2 Audit Committee Report – The next meeting was scheduled for Wednesday 25 March 2009.
- 43.3 General Purposes Committee – The Vice Chair of the Committee reported that a working group would be established to take forward the IS/IT strategy. Most other issues had already been covered at this meeting.

09/44 Draft (pre-cursor) Registration Scheme

- 44.1 The Chair of the Working Group introduced the paper and confirmed a draft application form had been prepared. A meeting had been held with the Law Society and they had agreed to appoint 2 members to support the work in taking this forward. The Board congratulated staff on the paper. NICtS suggested that a similar register might be possible for counsel.

09/45 Judicial Review Report

- 45.1 The Board considered the JR report. The Principal Legal Adviser reported on a legal issue that had been raised around the introduction of the Green Form – a Brief was currently with Counsel and advice was awaited.

09/46 Any Other Business

- 46.1 Pensions – The Board agreed a strategy for further meetings on the pensions issue.
- 46.2 Family Care Centre Remuneration – The Chairman reported on a meeting with the Bar in relation to fees
- 46.3 Board Away Day – Dates had been proposed for May 2009, the Secretary to the Board would confirm by email.

09/47 Date of Next Meeting Thursday 23 April at 9.30am

SIGNED:
CHAIRMAN

DATED: