

**Meeting of the Northern Ireland Legal Services Commission held  
on THURSDAY 23 April 2009 at 9.30am, Board Room, Waterfront  
Plaza**

## **MINUTES**

**Present:** Jim Daniell (Chairman)  
Les Allamby  
Fiona Donnelly  
Joe Donnelly  
Breidge Gadd  
Dr Jeremy Harbison  
Wilson Matthews  
Miceal McCoy  
Gillian McGaughey  
Hilary McCartan  
Ronnie Spence

**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

Apologies: Drusilla Hawthorne (to join the meeting later)

### **09/48 Apologies & Declaration of Board Members Interests**

The Chairman reported that he had attended a business lunch hosted by Sir David Fell.

Jeremy Harbison reported that he had been appointed as a Pro-Chancellor of the University of Ulster.

Hilary McCartan reported that she had been appointed to the Board of the Regional Business Services Organisation, the replacement body to CSA.

## **09/49 MINUTES of 19 March 2009 Board Meeting**

- 49.1 Expert Witnesses – To clarify the March minutes it was reported that this issue was being progressed by a consultant who had been appointed specifically to take this work forward. The PID for the exercise had been completed and the target was for a draft report to be prepared by the end of May.

**ACTION: The draft report to issue to the AJC before coming to the Board.**

- 49.2 The Minutes were agreed subject to minor amendment.

## **09/50 Action Point Report and matters arising from the Minutes of 19 March 2009**

- 50.1 IS/IT Upgrade – It was noted that the Board had remitted the oversight of the IS/IT strategy to a staff action group. It was confirmed that group would report directly to GPC and then to the Board.
- 50.2 Counter Fraud Strategy – While the Board noted this was an item recommended for removal it considered it important to note that the strategy included an annual action plan. It was agreed that the action plan would be incorporated in the annual Business Plan and would be monitored in the first instance by the GPC.

## **09/51 Financial Performance – Summary Report**

- 51.1 The Director of Corporate Services advised that she was not yet in a position to report on the financial outturn for the previous year 2008/09: the information on resource was still coming through, the cash position was that the Commission was very close to its projections on spend. It was confirmed that a first draft of the budget for 09/10 (covering pay, accommodation, IT etc) would be presented to GPC on 27 April.

**Action: First draft of the budget for 09/10 to be presented to April GPC.**

NICtS reported on ongoing discussions with HM Treasury regarding funding for 09/10 and future years. These discussions continued against the background of the devolution facing agenda and NICtS reported that they were in parallel discussions with DFP. It was further advised that DFP were working to ensure that the full monetary costs associated with legal aid were identified to inform the devolution discussions.

- 51.2 High Cost Cases – Interim Payments – The Chairman asked for an update on the current interim payments position in the context of this year's budget. NICtS reported that the Taxing Master had assessed 191 individual bills with another 60 bills prepared for assessment. It was anticipated that the backlog with the Master would be cleared by the summer. The vast majority of the cases had exceeded 60% for an interim payment although there were a small number of cases which had been significantly reduced by the Master and these would, most likely, be appealed.

- 51.3 The Board stressed the importance, given the on-going financial pressures, for time to be dedicated to detailed budgetary analysis across all areas of the legal aid fund. Looking forward the need to look at the potential financial implications of a graduated payments scheme was important. The Board also commented on the need to identify potential pressures coming into the system in terms of cases being prepared by the PPS.
- 51.4 NICtS reported that work was ongoing on the criminal side (Crown Court) and there were information streams which should enable NICtS to put more accurate information into the forecast. NICtS reported that Causeway, once live, should be able to provide better information streams. The Director of Policy & Service Development indicated that information on family cases would eventually come from the Expert Witness Steering Group. It was agreed the arrangements set up with PPS may enable the Commission to receive information on cases that were in the system. The need to monitor and collate comprehensive management information was noted.
- 51.15 Forecasting Model – The Director of Corporate Services reported that she was presently talking to IT specialists to investigate the options available to the Commission. It was important that any automated model would be able to provide regular and meaningful information. The next stage was to commence a procurement exercise and it was anticipated that a suitable system could be available within the next six months. The Board requested that the development of a better forecasting model be kept on the agenda and that regular update reports be brought back for consideration. The Chairman of the Board also noted the need for any new model adopted to be able to provide both short term and longer term projections. In the meantime an updated financial forecast was requested for 09/10 taking account of the latest information on VHCC's and of the modelling structure developed by Price Waterhouse.

**Action: An updated financial forecast for 09/10, taking account of the latest information on very high cost case and of the modelling structure developed by Price Waterhouse, to be brought back to July GPC.**

**Update reports on the development of a new Forecasting Model to be retained on the Board agenda.**

- 51.16 AERC – The Chairman reported that he had responded to the AERC's written request for additional information The Secretary of State (NIO) had also provided oral evidence and the AERC had now requested oral evidence from the Lord Chancellor in relation to legal aid. The Chairman was of the opinion that Bridget Prentice, Minister for the Court Service would attend on the Lord Chancellor's behalf.

## **09/52 Funding for 2008/09 and CSR Period and Options for Savings**

- 52.1 Options for Savings – NICtS reported that they were still awaiting a response to the Lord Chancellor's letter to the Chief Secretary.

### **09/53 Draft Business Plan 2009/10 (Version 3)**

53.1 A final draft of the Business Plan was tabled for discussion. Commissioners were invited to submit final comments by 1 May 2009. The Board agreed to remit authority for the final sign-off of the Business Plan to the Chairman and Chief Executive.

**ACTION: Final comments on the draft business plan to be sent to the Chief Executive by 1 May 2009.**

**The Chairman and Chief Executive remitted to sign off the final document.**

### **09/54 Annual Report 2007/08 (Version 2)**

54.1 A final draft of the Annual Report 2007/08 was tabled for discussion. Commissioners were invited to submit final comments by 1 May 2009. The Board agreed to remit authority for the final sign-off of the document to the Chairman and Chief Executive.

**ACTION: Final comments to be sent to the Chief Executive by 1 May 2009.**

**The Chairman and Chief Executive remitted to sign off the final document.**

### **09/55 Timetable for Publishing Annual Report and Accounts**

55.1 Details of the timetable for the publishing of the Annual Report and Accounts were reported:

- annual report and accounts for 2003/04 and 2004/05 had been laid
- annual report and accounts for 2005/06 would be laid shortly

It was anticipated that those for 2006/07 would be laid before the summer recess, the timeline for the laying of the 2007/08 annual report and accounts were less certain because the introduction of a partial provisions basis for accounting. The Director of Corporate Services was meeting with the auditors to confirm the timetable for the laying of 2008/09.

55.2 For 2005/06 – the revised statement on internal control in respect of Commissioners' remuneration was noted by the Board.

### **09/56 Chief Executive Report**

- 56.1 Progress on Business Plan 2008/09 – It was noted that the report covered to 31 December. The final quarter report for the year end would be brought to the May meeting.
- 56.2 Risk Management – It was reported that departmental risk registers had been reviewed and quarterly statements of assurance had been presented to the March Audit Committee. The Audit Committee would meet again in June to focus on specific risk management matters. It was also reported that the NICtS, as the sponsoring body, were obliged to undertake a review of the Commission's audit processes. NICtS reported that they were currently reviewing the system for processing very high cost cases and were looking to establish if the information available from the ICOS system could support this process. The Chair of the Audit Committee reported that he had written to the Chair of NICtS Audit Committee regarding the register of shared risks.
- 56.3 Financial Reporting – The timetable for the production of annual report and accounts had been reported at 09/55.
- 56.4 Transformation Programme - An update was provided on the delivery plan with specific reference to Funding Code, Statutory Charge Regulations, Financial Eligibility Regulations and Remuneration Order. The Board noted the update and requested that it be made aware of the areas of risk as they arose.
- 56.5 Culture Change Project – It was reported that the action plan for taking forward the culture change programme and the draft HR strategy had been considered by TMT. It was considered that the HR Strategy was the main vehicle for taking forward the culture change survey findings/action plan. Drafts of both documents would be going to GPC. The Chair of the GPC noted his dissatisfaction with the speed of progress that was being made in both exercises. Also, in his view, the exercise was not being progressed in the way that had been initially intended. The Chair of GPC also noted that the culture change survey had created an expectation with staff, it was therefore essential that this work was progressed and he requested that TMT discuss this with GPC as soon as possible.
- 56.5 Director of Corporate Services – It was reported that Mrs Josephine Kelly had had accepted the post. A commencement date had to be confirmed. It was agreed she would be invited to attend the Board Away Day on 27/28 May 2009.
- 56.6 Pensions Update – To be discussed in closed session at the end of this meeting.
- 56.7 Complaints/FOI Enquiries/Ministerial Enquiries

The Vice-Chairperson reported on a meeting of the Communications Working Group which had taken place on 22 April:

56.7.1 Communications –The disclosure of payments to the profession for the top 100 earners for 2006/07 and 2007/08 was on schedule for May 2009. This would be a more low key exercise than the 2008 exercise.

56.7.2 FOI – An update was provided on the recent investigation by the Office of Information Commissioner into the Commission's procedures for the

handling of FOI enquiries. The Board stressed the importance of dealing with enquiries, complaints and correspondence in a timely and customer focused manner.

- 56.7.3 Annual Reports – The timetable for publication had been discussed, the need for a communications handling plan to support their publication was noted.
- 56.7.4 Weber Shandwick – It was reported that a meeting was scheduled with the communications consultants to discuss their role in supporting the communication plan and engagement with the Commission's stakeholders. The Communications Working Group stressed the importance of timely media monitoring to be carried out by Weber Shandwick.
- 56.7.5 Staffing – The Communications Working Group had noted the need to replace the role of the Communications and Corporate Governance Officer.
- 56.7.6 Leaflets – It had been agreed there was a need for the Commission to produce a range of general information leaflets with a view to improving external communications.
- 56.7.7 Website – There was an urgent need for this to be upgraded.
- 56.8 Complaints – The Chief Executive reported that he intended to appoint an independent investigator to examine a particularly complex complaint. The appointment would be through a single action tender exercise which has been approved by the Audit Committee.
- 56.9 Complaints/ FOI handling – It was agreed that reports on complaints and FOI would come to the Board through the GPC.

**ACTION: Business Plan 2008/09, final quarter report on performance against objectives to be brought to the May Board.**

**Transformation Programme – the Board to be informed of risks within the programme as they are identified.**

**Culture Change Programme – TMT to discuss the implementation plan with GPC as soon as possible.**

**Publication of Annual Reports – a communications handling plan to be developed.**

**Communications and Corporate Governance Officer role - to be replaced.**

**General Information leaflets to be developed.**

## **09/57 Devolution of Justice**

- 57.1 The Chairman updated the Board on the progress of the 'Preparing for devolution' exercise:

- Strand 1, Due Diligence – This was virtually completed and the draft report would be circulated to Committee Chairs in the first half of May;
- Strand 2, Structural Arrangements – this element would also include exploratory visits to England & Wales, Scotland and Ireland; and
- Strand 3, Strategic Review – This element of the exercise would be informed by the out-workings of strands 1 and 2.

57.2 The Chairman advised that the exercise would be discussed in fuller detail at the Board Away Days in May. It was anticipated that first drafts of the papers for Strands 1 and 2 would be in circulation for discussion by the end of June/early July; initially through the Committee Chairs. Thereafter detailed discussions with Commissioners would take place.

57.3 The Board noted the progress that had been made and agreed to the approach that had been adopted.

#### **09/58 Internal Audit Recommendations**

58.1 Following on from 56.2 there was discussion around the recent PAC report on Brangam and Bagnall and Co. The Chief Executive highlighted Accounting Officer issues; specifically the need to pro-actively move forward the risk management agenda.

#### **09/59 Report from Committee Chairs on Issues and Matters Requiring Decision within the next few weeks and Risks**

59.1 Access to Justice Committee Report – The Vice-Chair of the Committee introduced the paper and highlighted the following points to the Board:

- Service Delivery – The accuracy of management information and the level of backlogs in adjudication section was causing concern. The Committee had requested an action plan together with a realistic timetable to be brought back as a matter of urgency for consideration. The Board requested an options paper on the way forward to release pressures in the adjudication section to be prepared and brought back to the Board.
- Overall, good performance in service delivery was noted.
- Statutory Charge – In discussion it was noted that further legal opinion would be sought around the issue of debt recovery. Other key issues noted were impact on service delivery and finance, and the need for effective communication with the profession.
- Funding Code – It was noted that the forth-coming public consultation exercise would be the central focus of the Board 'Away Days' in May. The Board agreed a strategy for including references to contracting in the consultation documents.

- Criminal Section – The Committee noted its continued concerns regarding the delay in filling the 2 DP Posts.

59.2 Audit Committee Report – The Chair of the Committee introduced the paper and highlighted the following points to the Board:

- NIAO were working towards having all outstanding annual reports and accounts addressed and the Commission back on schedule for future audits by March 2010.
- Internal Audit progress report – ASM Howarth had reported that after significant engagement with management terms of reference for the Corporate Governance Review had been agreed, and that they were working to have the report available for the May audit committee.
- The Chairman of the Board raised his concern at the extent of Internal Audit Programme including the number of days commissioned. He stressed that while the Board required the assurance of internal audit it also had to be assured that the work was essential. The Chair of the Committee reported it had been agreed that, prior to any review being carried out, terms of reference would be agreed in advance, he also advised that Internal Audit Plan for 2010/11 would be re-examined by the Committee in November.
- The satisfactory assurance of the ‘Award of VHCC’ review was noted and the Chair of the Committee advised that he would be writing to the NICtS noting the Committee’s concerns, and copying the report to the Chair of the NICtS Audit Committee. The report was also being issued to the AJC.
- The limited assurance of the ‘Project Management’ review was noted. The Chair of the Committee advised that it was important to recognise that the review findings applied across the organisation and not just the transformation programme. The report was being issued to both AJC and GPC for consideration.

59.3 General Purposes Committee – The Chair of the Committee reported as follows:

- The Committee was concerned at the number of exercises which had fallen to the Interim Change Manager to take forward
- The lack of progress in producing the workforce plan, while the Committee had directed that a broad brush approach was sufficient it was also important to stress that the approach adopted must allow the organisation to move forward strategically
- It was no longer considered necessary for the Change Management Group to sit separately from GPC given the progress that had been made and the commonality of issues. It had therefore been agreed that the Group would fold and the work be taken through the GPC. Group

membership had been the Chairman, the Chairs of GPC and Audit Committee, the Transformation Programme Manager and the NICtS).

#### **09/60 Family Fees**

60.1 The Chairman reported that despite further correspondence and discussions, disagreement with the Bar remained on two outstanding and fundamental points in relation to family fees. The Board agreed to a negotiating strategy going forward.

**ACTION: The Chairman to continue negotiating with the Bar in line with the agreed strategy.**

#### **09/61 Judicial Review Report**

The Board noted the report.

#### **09/62 Information Assurance Programme**

62.1 The Board noted that two NICtS staff had joined the Commission to assist with the work involved in implementing the national security framework for handling information required by the Cabinet Office.

62.2 Board members were reminded that board and committee papers could be returned for disposal to the Secretariat once they were no longer required.

#### **09/63 Any Other Business**

63.1 Letter from Directorate of Legal Services – The letter was noted.

63.2 Board Away Days - Reform Programme – The Chair of the AJC outlined the programme for the May Away Days. It would be important to sign off all the documentation associated with the consultation exercise by the end of May to allow the NICtS to inform the Minister before parliamentary recess. An options paper on the way forward would also be prepared. Commissioners requested that the options paper included a realistic timetable to reflect the legislative framework that would be required for any proposed change.

63.2 Contracting – This had been discussed at a recent meeting with the Law Society. As mentioned at 59.1 above, appropriate references to contracting would be made in the consultation documents.

#### **09/64 Date of Next Meeting 27/28 May 2009 at 9.30am**

**Meeting ended 1.30pm**

**SIGNED:** .....  
**CHAIRMAN**

**DATED:** .....