

**NORTHERN IRELAND LEGAL SERVICES COMMISSION
BOARD MEETING – THURSDAY 07 SEPTEMBER 2006 AT
9.15AM
BOARD ROOM, WATERFRONT PLAZA**

MINUTES

Present: Sir Anthony Holland Chairman
Les Allamby
Fiona Donnelly
Joe Donnelly
Brian Fee
Breidge Gadd
Jeremy Harbison
Wilson Matthews
Hilary McCartan
Miceal McCoy

NILSC: Gerry Crossan Chief Executive
Geoff Brooks Director of Corporate Services
Theresa Donaldson Director of Policy & Service Development
Ian Hearst Director of Service Delivery
Rose Jellie Secretary to the Chairman and Chief Executive

In attendance: Paul Andrews NICtS Observer

Open Session

The Chairman welcomed Paul Andrews to the meeting.

06/100 Apologies – Ronnie Spence

06/101 Minutes of the June Board Meeting

The Minutes were agreed.

06/102 Matters arising from the Minutes of 15 June 2006

102.1 Delegated Authority for Civil Legal Aid - Recruitment of External Lawyers –
The Chief Executive reported that there had been a slight delay and the advertisement would be in the press this week.

06/103 Declaration of Board Members Interests and Forthcoming Engagements

103.1 The Chairman reported the following:

- He had addressed the Chief Executive's Forum dinner on 6 September 2006;

- He was due to meet with the Attorney General Office of Canada in London re a judicial review by the Bar but the action had been struck out and the meeting cancelled. He asked that the Commission receive a copy of the application as it raised some relevant policy issues for the Commission in relation to targeting social need.

ACTION: Secretary to the Commission to copy Canadian Bar application to all Board members for information.

103.2 Jeremy Harbison, the Chairman of the Access to Justice Committee, reported the following:

- Legal Need Seminar had taken place on 6 September 2006 and a copy of Tony Dignan's Report would be made available on the Commission's web site
- Community Legal Services Stakeholder Group – meeting to take place on Monday 11 September 2006
- Follow up to the Big Tent Event - a meeting would take place on 12 September 2006 at Waterfront Plaza

103.3 Dr Theresa Donaldson, the Director of Policy and Service Development, reported on the World Congress for Family and Youth Justice at which she had attended and participated at. A report would be made available with a link to the 8 recommendations made at the Belfast World Congress on the Commission's web site. The Secretary to the Commission asked Board Members to forward Declarations of Interest to the Secretary of the Commission as soon as possible.

ACTION: All Board members to forward Declarations of Interest to Secretary by 30 September 2006, including nil returns.

The Director of Policy & Service Development to forward World Congress Reports to the Secretary of the Commission for website upload.

06/104 Chairman's Report

See 103.1 above.

MATTERS FOR DECISION

06/105 Draft Equality Scheme – CH/CEO/POL/007/V1

The Chief Executive made a recommendation that the Board should accept the draft document as a consultation paper. It was reported that the Access to Justice Committee had endorsed the draft document at its last meeting. Subject to minor amendments, the Board accepted the document should issue as a consultation paper.

ACTION: Secretary to proceed with printing and consultation on Draft Equality Scheme.

06/106 Corporate Plan 2007/08 – CH/CEO/OP/006/V1

This was discussed by the Board at the Away Day on 6 September 2006.

ACTION: The Secretary to the Commission to arrange a meeting for the Working Group to take this matter forward.

06/107 Remuneration Proposal for Solicitors for Cases under Articles 8 and 40 of the Children (Northern Ireland) Order 1995 – Second Proposal

107.1 The paper had been considered by the Access to Justice Committee who had taken on board points made about the forecasting model. The paper also took into account the proposals in the Carter Report. Following the Committee meeting, an Addendum to the document had been emailed to Board Members and tabled at the meeting for convenience. This related to Family Proceedings Court and Family Care Centre cases. It was proposed that Article 3 cases would remain at the current fees and there would be a reduction in fees for Article 8. A business case would be prepared for NICtS, seeking formal approval of the proposal. There could be a degree of flexibility although the affordability to the Commission had to be considered.

107.2 The Bar Council - Brian Fee confirmed that this paper would also be particularly relevant to the Bar. There would be a considerable number of Counsel involved in Category 1 cases. However, Brian Fee thought that applying 4 factors as detailed in Table 3, was setting the standard very high.

It was reported that the Commission had been working with Bar and the principle of standard fees had not been accepted by the Bar. There was also an issue about certification.

107.3 NICtS said that the Remuneration Order had to be taken into consideration. There was no difficulty with remuneration below the maximum. There was a different interpretation under Article 3. There needed to be discussion about how to move away from fee sharing.

ACTION: The Chairman asked that the Board's thanks be passed on to staff in the Policy & Service Development section for the work involved which had been underpinned by a lot of research, via the Secretary to the Commission and the Director of Policy & Service Development.

06/108 Chief Executive's Report

- Performance against Business Plan 2006/07 Objectives – the next report was due at the end of September.
- Performance against Delivery plan 2006/07 Objectives – the next report was due at the end of September.
- Development of the Delivery Programme – the programme was in line with the Corporate Plan and the transition into the next organisation was under way. There were recruitment difficulties. As fixed fees came into place, and work began on compliance, many of the skills and people from Service Delivery would be moving to other sections. A report would go to the next Board meeting explaining the resourcing issues and the affect these would have on the performance figures.
- NICtS Financial Management Review – PWC report was awaited.
- ISO Projects – The second phase of the registration audit of the organisation had taken place and the Commission had maintained its ISO registration. A verbal report had indicated that quality, management framework had become more deeply embedded.
- Investors in People – this had been launched.
- Consultation of PBNi's Good Relations Strategy – this had been noted.
- LSC Circulars – the Board noted the circulars which had recently issued to the Profession and which were available on the Commission's web site.

NICtS indicated that there may be capacity to share the resource of a recently recruited Project Manager to assist the Commission with the Delivery Programme. The Board requested the Chief Executive to provide a regular report on the development of the Delivery programme.

ACTION: The Chief Executive to provide monthly reports to Board on the implementation of the Delivery Plan.

06/109 Audit Committee Report

- 109.1 Report from April 2005 to March 2006 - The Board noted the report from the outgoing Chair of the Audit Committee, Ronnie Spence, who had led a challenging group through a difficult time for Commission staff. The Board noted the significant improvement. The NIAO had also recognised that the organisation could not have been expected to receive anything other than limited assurance, as per the Statement of Internal Control in the Accounts.
- 109.2. Accounts - The Board were concerned that the Accounts as far back as 2003/04 had not yet been agreed by NIAO and the Board would liked to have seen this backlog cleared.
- 109.3 Report from the Audit Committee meeting held on 25 August 2006: NICtS made an observation in relation to Commissioners Remuneration and confirmed that the Director, NICtS, was addressing his mind to the letter from the Chief Executive.

ACTION: The Secretary of the Commission to issue an update of the External Auditors Reports 03/04, 04/05 and 05/06 to Hilary McCartan.

06/110 General Purposes Committee Report

110.1 Recruitment - The Committee had been concerned at the Commission's lack of success in recruiting staff.

110.2 Pensions – The Committee were also concerned at the pension issues and had agreed to monitor the situation carefully. The Committee felt this was a high risk area. NICtS confirmed that they welcomed the correspondence received from the Chief Executive on this issue.

ACTION: The Chief Executive to provide an update on the pension situation at the October and November Board meetings.

06/111 Access to Justice Committee Report

The Board noted the paper.

06/112 Finance Report

112.1 Burke Case - The Chief Executive introduced the paper and reported that a review on the Burke case was awaited from the Internal Auditors.

112.2 Budget - NICtS reported that the Director had arranged for a meeting with Treasury on 18 September 2006, at which Paul Andrews would be making a presentation. The figure of £72M in resource terms would be maintained for the next 2 years, mitigating to a 5% reduction.

112.3 Resource and Cash Accounts – Following a query as to why the resource figure was higher than the cash figures, the Chief Executive explained that the broad assumptions behind the cash and resource during this transition period. By 2007/08, with the introduction of reformed services, the cash and resource estimates would be more closely realigned. NICtS Observer confirmed that and welcomed the Chief Executive's comments in relation to cash management.

112.4 Counter Fraud – A new appointment had been made in the Section and the Chairman asked members to introduce themselves.

06/113 Service Delivery Reports

The Board noted the content of the Reports.

06/114 Legal Risk

114.1 Judicial Review against the Commission - The Committee noted the paper.

114.2 Staffing – The Chairman reported that a new lawyer had joined the Legal Team.

114.3 Judgment – Judgment had been given in *Fleming* which indicated that extensions could operate retrospectively under the new Proceeds of Crime legislation.

06/115 Freedom of Information Requests

The Board discussed this issue at length and the following points were noted:

- The Secretary to the Commission was making contact with the FOI Office.
- The Chairman would speak with the President of the Bar Council to agree a reasonable timescale for release of the information.
- Brian Fee indicated that the Commission had not dealt well with this issue. He suggested that there was a failure to properly address Bar concerns re disclosure of individual barristers' names and safety concerns which individuals were entitled to pursue. The paper revealed to the Board did not suggest any urgent pressure to reveal individuals' names as opposed to generic information. The Commission should not cause unnecessary friction and should be seeking to deal with the issue in a sensible way. Any potential PSNI difficulty in completing security checks on individuals was not the Commission's fault and could be put forward as a legitimate reason for delaying individual disclosure.
- The Commission had a legal obligation to disclose the information. There would be an equity issue which had to be worked through.
- One of the grounds under the FOI was the ground of Health & Safety and Emotional Distress.

ACTION: The Chairman agreed that generic information could be released and the Commission should seek Counsel's opinion in relation to other problems.

The Board requested a report on the process to be followed.

The Secretary to the Commission to liaise with NICtS re the Audit Trail.

06/116 Funding Code

- **Executive Summary**
- **Judicial Review**
- **Draft Guidance on Children Order Public Law Proceedings**
- **Draft Guidance on Merits, Costs and Damages**
- **Draft Criteria**

The Board noted the content of the papers and Brian Fee, Fiona Donnelly and Joe Donnelly were asked to consider the papers from a practitioner's point of view.

The Funding Code document would issue as a consultation document at the end of September.

ACTION: Comments from practitioners to be with Director of Policy & Service Development before a meeting scheduled for 20 September 2006.

06/117 Statutory Charge Draft Project Initiation Document

The Board noted the paper. The Board acknowledged the quality and clarity of the paper and asked that the author be thanked for their contribution through the Secretary to the Commission and the Director of Policy & Service Development.

06/118 Timetable for Board and Committee Meetings 2007 – CH/CEO/POL/002/VI

This had been discussed at the Away Day on 6 September 2006.

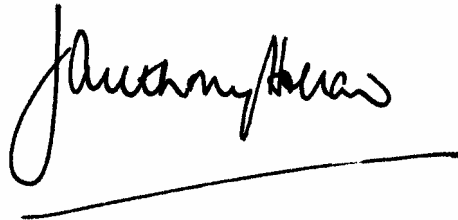
06/119 Board Diary

The Board noted the diary dates.

06/120 Staff Briefing

The next Staff Briefing meeting was scheduled for Wednesday 13 September 2006. The Chairman confirmed his attendance and asked Board Members to attend if they were available.

16/021 Date of Next Meeting – Thursday 19 October 2006 at 9.15am

A handwritten signature in black ink, appearing to read 'J. A. ...', is written over a solid horizontal line.

SIGNED:
CHAIRMAN