



pension issue was likely to take some months and in the meantime a draft Staff Bulletin had been prepared which would inform staff of the processes. However, NICtS had some concerns about the issues and the wording of the staff bulletin. It was the Commission's intention to implement a pay and pension agreement by December.

The Chairman suggested imposing the 2% interim payment immediately with staff having the option of refusing the payment. The Board were deeply concerned at the affect this was having on staff morale and agreed that the delay was unacceptable. However, the Board also agreed that the pay and pension issues should not be decoupled.

NICtS confirmed that they appreciated how the Commission were trying to communicate the processes to staff, but felt the way forward was not to issue a circular in advance of, but after, a direct meeting with the Trade Union at which the Chief Executive and the Chairman would attend. A timetable for a phased approach to resolution should be set out at that meeting.

The Board agreed that the Commission had to communicate fully with staff. The Board gave a commitment to resolve this issue as early as possible and agreed that the 2% interim payment offer should remain on the table.

The Chief Executive explained that this was the last phase of changing the inherited terms and conditions. He stressed that these issues had to be resolved and it was down to which pay scale the Commission were going to use. The Board recommended that the Commission should align as far as possible with NICtS. NICtS explained that the Trade Union wanted to see NDPBs moving into a more consolidated position. At this stage, all the Commission could do was to begin negotiations with the Trade Union. It was anticipated that the pension issue would be resolved in November 2007. NICtS formal approval had to be sought for both the pay and pension issues. The Board agreed that for the purpose of the present negotiations, the Commission would align with NICtS pay levels. It was also agreed in principle to a linkage for the 3 year pay deal. Subject to minor amendments, the Board agreed the draft bulletin to Staff which would issue as soon as possible.

**ACTION: Chief Executive to respond to the Trade Union Side setting out the Board's position and to inform staff of the fullest position through the issue of a Staff Bulletin as soon as possible.**

142.3 LSC 06/06 – The Director of Policy & Service Development introduced a tabled paper which was a report to the Board on the current position and followed on from the Internal Audit Review of the delegated authority arrangements under LSC 06/06.

It was reported that the Legal Aid Committee meetings had gradually been reduced and the Committee were dealing with appeals that had arisen before LSC 06/06 as well as emergencies and other appeals to keep the process moving. The current process had to be formalised with the LAC and the Commission could not give a cut off point at this time. There had been a lot of work done on the reasons for refusal by adjudication staff and this would continue.

There was a need for arrangements to be put in place for the Fees Assessment appeals and it was suggested that the external lawyers who had been recruited could be part of these new arrangements. There was also a need to keep up momentum with the Funding Code. If the Commission agreed with the proposal that elements of LSC 06/06 be put on hold, then there should be an opportunity to accelerate work on the Funding Code.

The Board were concerned at the effect that not fully implementing LSC 06/06 would have on the Commission's credibility with the Profession and with Staff. Dr Harbison clarified to the Board that the aim would be phase in the arrangements set out in LSC 06/06 within resources available. The Internal Audit report had recommended that the Commission did not implement LSC 06/06 using staff for appeals until all the arrangements had been put in place. There were not the resources at the present time to fulfil this and more training was necessary. The Board agreed that any decisions that were currently being made had to be communicated to the Profession together with an approximate time for how long this would continue. The Board agreed that the arrangements for introducing LSC06/06 should continue but be phased in line with resources available.

The Board suggested that, as well as using the external lawyers for fees assessment appeals, they could also be considered in their role as consultants to the process. It was queried if there was scope for trained staff to have more input in an observation role to the LAC. It was stressed that the Commission had to be transparent with the Profession. The Board thanked the Director for the report and asked that the Director of Policy and Service Development provide a more detailed report to the Access to Justice Committee.

**ACTION: The Director of Policy & Service Development will bring a further report on the way forward with LSC06/06 to the Access to Justice Committee.**

### **07/143 Chairman's Business**

Review of Management Team Structure – The Chairman reported that proposals had been put to NICtS and limited agreement to the proposal had been received. He stressed that the present position was unsatisfactory and the organisation could not continue much longer with the present staffing levels at senior level. The Director of Policy & Service Development reported on the pressure on Service Delivery staff and said that a disproportionate amount of decision making within the section appeared to be concentrated around one post. A re-balancing of responsibilities needed to take place. The forthcoming changes to criminal legal aid and the introduction of a High Cost Case Unit were among changes that could have a significant impact on staff.

The Director also expressed concern about the uncertainty around her own position in managing two directorates and the authority she had to make necessary changes to alleviate pressure. It was agreed that the Board had a duty of responsibility to employees. The Chairman reminded the Board that in May the Landscape Review had recommended four additional Directors. The current position was that there were two. The Board agreed that something needed to be done urgently. NICtS agreed that there had to be a clear understanding of what the Directorate structure needed to be and indicated

that a directorate structure of two could be revisited by NICtS following appointment of the new Chair. NICtS wanted to ensure that any money available was spent in the most effective and efficient way.

Scheme of delegation: The Chief Executive indicated that Corporate Services issues were emerging which would also have an affect on existing staff and said that over relying on processes meant that the Commission was continuing in a high risk environment. More staff were required in Service Delivery which would bring more flexibility. The Chief Executive recommended the implementation of the Scheme of Delegation, which had been before the Board, to change the decision making processes within the organisation. In principle, the Directors needed to be able to delegate authority for decision-making within the structure that was in place and taking account of the resources available. The Board agreed in principle the Chief Executive and Directors should be given delegated authority to make decisions. The Board asked for the Scheme of Delegation to be amended to give the Chief Executive the Board's approval to manage delegated authority and for this to be emailed to all Board members for formal approval.

The Board agreed that the merging of reform and service delivery should remain an objective. The Director of Policy & Service Development confirmed that she would be looking at having joint working across the directorates and recommended that a small working group should be established comprising the Top Management Team and Board members. The Board agreed to the establishment of the working group on the structure and nominated B Gadd and M McCoy to the working group. The working group will be chaired by the Chairman.

**ACTION: The Secretary to the Commission to amend the Scheme of Delegated Authority and issue to all Board members for approval.**

**Management Team Working Group to have initial meeting as soon as possible.**

143.1 Action Plan Draft 3 – The Chairman reported and indicated that the only amendment was in relation to the structure. NICtS confirmed the level of detail was broadly acceptable and suggested minor presentational amendments. The Board agreed the Action Plan

**ACTION: The Chairman will communicate the agreed Action Plan to NICtS.**

143.2 Landscape Review – The Chairman reported that he had received Commissioners comments. NICtS reported that the past Chairman had also been sent a copy for comment.

143.3 Business Plan 07/08 Draft 3 – The Chief Executive reported that work was continuing on the Plan. The next draft would be informed by the work being undertaken by PWC and the text would be reviewed by the Board when PWC had finished their work. The Audit Committee would discuss the Plan at the next meeting in early October.

143.4 Appointment of Chairman – The NICtS reported that it anticipated that the appointment would be announced shortly.

143.5 Corporate Risk Management – It was agreed that any high level risks would be brought to each Board meeting.

#### **07/144 Human Resource Issues**

144.1 Attendance – The Board were concerned at the rise in absence figures. The Business Manager Human Resources explained that this was due to a number of staff being on long term sick leave.

144.2 Industrial Tribunal – The Commission had received correspondence from the Labour Relations Agency in relation to their involvement.

144.3 Grievance – The background to the issue generating the grievance had been discussed by the Audit Committee and a report would be brought to the Board by the Chief Executive.

144.4 Staffing Summary – It was reported that there were 14 posts to be filled. The Board were concerned that this meant a considerable percentage of available work force were not in post. It was also reported that currently there were 2 recruitment exercises taking place, one for maternity cover for the Statutory Charge post and the other for an EO2 post. An advert had been placed for Clerical Officers. It was further reported that all existing 51 week contract staff had been offered permanent positions.

#### **07/145 Finance**

145.1 The Chief Executive introduced the paper and confirmed that the information coming to the Board at Table 6 was on a resource accounting basis. In relation to the cash budget, a cash management strategy would be agreed with NICtS. If the Commission does not have the cash in this financial year to cover the liabilities then these would be pushed back into 2008/09. It was reported that the PWC analysis would provide a firm credible figure, which NICtS would take forward with Treasury, by the end of September. NICtS said that the Board had to be aware that the Chief Executive had responsibility as Accounting Officer not to spend money that he did not have. The next phase of the PWC work was to look at the projection across the CSR cycle. It was anticipated this would be available at the end of October.

#### **07/146 Draft Equality Impact Assessment – Financial Eligibility**

146.1 Cross reference mention of the Funding Code.

146.2 P.2 – judiciary responsible for Criminal Legal Aid – not NICtS

P.4 – Footnote under civil legal aid to recognise Article 10(a). **The Board noted and approved the paper.**

**ACTION: Secretary to the Commission to begin consultation on the approved Draft Equality Impact Assessment.**

#### **07/147 Financial Eligibility Working Group – Consultation Paper**

147.1 Dr Harbison reported that the Consultation Paper was based on Tony Dignan's report and he recommend that the Commission go out to consultation at the beginning of October with responses returned by

Christmas. NICtS' input had been received and had raised concern at Page 19 in relation to Housing Equity as a screening device and the commitment to periodically update this figure. NICtS felt that would be difficult to sell to the Minister.

**ACTION: The Board approved the paper subject to resolution of the housing equity issue.**

#### **07/148 Chief Executive Business**

148.1 Newspaper Article – A recent press article was circulated for information.

148.2 Managing Attendance Policy – A draft memo was tabled for Board approval in which gave Business Managers responsibility for conducting interviews that are the responsibility of Directors in their sections in this interim period. The Board approved the interim change in the Managing Attendance Policy

**ACTION: The Chief Executive to communicate the interim change in policy to Business Managers and all staff.**

148.3 Managing Shared Financial Risk in the Administration and Reform of Legal Aid – The Chief Executive informed the Board that the Commission had received the PLSD Risk Register and that NICtS and PLSD were beginning the work on formulating the shared corporate risks in relation to:

- the current CSR period which is the transition to reformed services; and,
- the next CSR period during which the impact of reformed services would be more apparent.

The Chief Executive summarised the outputs from this process as being

- (a) development of Shared Financial Risks in the Commission's Corporate Risk Register and, where appropriate Business Risk Register, and in the PLSD Risk Register;
- (b) Commission ISO Policy and Procedures on "Assessing inherent financial risk in legal aid legislation"; and,
- (c) Commission guidance on the conduct of Legal Aid Impact Assessments.

The Chief Executive informed the Board that this process was likely to significantly inform the direction of the reform programme and the development of the arrangements between the NICtS which were progressing in the light of the NIAO report on Arms-Length Bodies, taking account of the potential impact of devolution. The Board agreed in principle to the identification of the shared financial risks and the outputs arising from this process and asked the Chief Executive to progress this work.

**ACTION: Chief Executive to produce project plan for the Managing Shared Financial Risk in the Administration and Reform of Legal Aid for the early November Board meeting.**

**07/149 Freedom of Information /Complaints**

149.1 The Secretary to the Commission reported that the secretarial team were liaising with the Business Manager IT to design a database which would enable statistics on general enquiries, Freedom of Information Requests and Complaints to be compiled. It was further reported that the Secretary to the Commission had requested a meeting with relevant senior staff in order to take forward staff information about complaints.

**17/151 Communications – Update**

The Secretary to the Commission reported that Members had been made aware of the dates for road shows and she asked Members to let her know which dates they would be available to attend the road shows.

It was reported that the Chief Executive was meeting with Stephen Farry MLA this afternoon. It was agreed that, in future, a Board representative would also attend any meetings with political parties where policy matters were the subject of the meeting. .

**ACTION: Secretary to the Commission to make arrangements with Board members on attendance at future meetings with representatives of political parties**

**07/152 Section 75 – Update**

152.1 The Secretary to the Commission reported that work was ongoing regarding taking forward Section 75 work with Angela Matthews. In particular, the Chief Executive had requested further information in order to take forward the issue of extending the contract for her services.

**07/153 Any Other Business**

Civil Fees – A letter from the Bar Council was tabled and the Board were asked to respond. It was reported that this letter had been discussed at the recent Legal Services Stakeholder meeting. It was agreed a holding letter would issue in the meantime.

**ACTION: The Director Policy & Service Development to issue a holding letter.**

**17/154 Board Diary**

**02 October 2007 – Board and Access to Justice Committee – 1.00pm**

**25 October 2007 – Board Meeting – 9.30am**

**Meeting ended at 1.00pm**

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

**DATED:** .....