



NORTHERN IRELAND
Legal Services
Commission

Business Plan 2009 - 2010



Should you require any further information about the Northern Ireland Legal Services Commission please visit our website at **www.nilsc.org.uk** or alternatively contact us at the below address.

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Foreword by Chairman

This business plan covers the period when it is expected that policing and justice, including responsibility for legal aid, will be devolved to institutions of government within Northern Ireland. With a Department of Justice as our sponsor body, this will provide welcome opportunities for greater integration of our civil and criminal legal aid services with the rest of the justice system and the wider network of social providers. It will also bring accountability and scrutiny of our performance closer to the people whom we serve.

The plan is based on the requirements of the Access to Justice (NI) Order 2003 and strategic direction provided by the Lord Chancellor. In the event that responsibilities are devolved, it will be for new Ministers to determine whether they wish the Commission to continue within the strategic framework set out in the Annex to this document or whether there should be some changes in approach. With our sponsor department, we will ensure that we are well placed to brief and advise on the possibilities.

When preparing this plan, as well as the prospect of devolution, there remained uncertainties over our budget, both in the current year and beyond. Nevertheless, we

believe it right to continue to plan on the basis of improving service delivery and developing a reform agenda in line with the Access to Justice (NI) Order 2003 (as well as preparing to implement changes to criminal legal aid being planned by the NI Court Service). This will enhance predictability and control of spend as well as enabling us to organise and target services more effectively and efficiently, working with and through our stakeholders.

At a time of change, both internally and externally driven, it is important that we do not lose sight of maintaining and improving service delivery. The Commission has therefore set itself some challenging performance targets that are outlined in this plan.

J A Daniell
Chairman

Mission, Aim & Values

Mission

The Commission will promote fair and equal access to justice in Northern Ireland in its provision of publicly funded legal services.

Aim

Our aim is to provide high quality, customer focussed services that target those in greatest need, promote social inclusion and demonstrate value for money.

Values

The Commission will work to these values in carrying out its responsibilities:

- Fairness and equity;
- Integrity and honesty;
- Responsiveness to our customers' needs;
- Commitment to quality;
- Valuing and developing our staff;
- Openness and Accountability.

Introduction

The Northern Ireland Legal Services Commission (the Commission) is responsible for the administration and reform of civil legal aid in Northern Ireland. The Northern Ireland Court Service (the Court Service) is responsible for the policy and reform of criminal legal aid in Northern Ireland and the Commission assists the Court Service in carrying out that responsibility as well as processing claims for payment in respect of criminal legal aid. This Business Plan sets out what the Commission aims to achieve in 2009/10.

The Commission's key services are:

- a) considering and determining applications for civil legal aid and authorities for experts in civil and criminal cases;
- b) scrutinising and paying claims submitted by solicitors and barristers for work done in both civil and criminal cases and managing appeals on fees paid;
- c) collecting financial contributions from people who receive assistance and any money awarded to them to cover costs;
- d) developing, consulting on and implementing changes to the way that civil legal aid is approved and paid for to bring control, predictability and value for money to the expenditure on civil legal aid; and
- e) implementing changes to the way that criminal legal aid is paid for, under the direction of the Court Service.

In 2009/10 the Commission aims to:

- improve the delivery of existing legal aid services;
- reform publicly funded legal services;
- strengthen the governance arrangements to enable the Commission to carry out effectively all its responsibilities.

This business plan sets out the objectives that the Commission has set to meet these aims in 2009/10. For 2009/10, the Commission has set itself the broad objectives of introducing civil legal services under revised legislation and maintaining performance in its key services of considering applications for civil legal aid and scrutinising and paying claims submitted by solicitors and barristers for work done.

This business plan, and the objectives and performance measures set out in it, are based upon a running cost budget of £8.7m. This comes out of £65m funding in respect of civil and criminal legal aid that was allocated for 2009/10 during the Comprehensive Spending Review 2007. Negotiations to secure additional funding to meet liabilities falling due during 2009/10, will be subject to ongoing discussion between the Commission, its sponsoring department and HM Treasury.

Like all public service organisations, the Commission operates within a strategic context which affects how it delivers its services and how it plans for the future.

The strategic context within which the Commission is preparing this business plan is set out at the Annex to this document. Within this strategic context, the Commission intends that by April 2010 it will:

- be making decisions on civil legal aid under the NI Funding Code;
- have plans in place with key stakeholders in the justice sector to implement a number of other reforms on civil legal aid, including a registration scheme for providers;
- have implemented changes to how payment is made for work done in criminal cases in the Magistrates Court and the Crown Court, under the direction of the Court Service; and
- be working effectively and efficiently under the arrangements for devolving policing and justice matters to the Northern Ireland Assembly that are likely to be implemented in 2009/2010.

The Commission will produce its next Corporate Plan to coincide with the next Comprehensive Spending Review period which is 2010/11 – 2012/13.

Improving the Delivery of Existing Services

The Commission publishes a range of information on its key services, including the volumes and types of case that it has funded across civil legal aid. This information for the year 2008/09 may be accessed at our website www.nilsc.org.uk. Further information on the Commission's performance in 2008/09 will be available in the Commission's Annual Report and Accounts for 2008/09, which will be published in Spring 2010. The Commission aims to achieve the objectives set out below in relation to the delivery of existing services in 2009/10.

The Commission has been strengthening its management and staffing to enable it to pursue high performance in the delivery of its current services and in the development of the reform programme for civil and criminal legal aid and to manage risks and issues effectively. In 2008/09 it achieved 7 of its 15 service delivery targets, with near misses in many of the others. As part of its commitment to service improvement it has retained a stretching set of targets for 2009/10, while recognising the challenges associated with maintaining performance in service delivery while preparing for and introducing reformed systems.

In relation to applications for legal aid in the Civil Business Area, the Commission will:

- make a decision on 95% of applications for advice by way of representation (ABWOR) within 3 days;

- make a decision on 95% of applications in relation to Children Order proceedings within 3 days;
- make a decision on 90% of applications for emergency civil legal aid within 3 days; and,
- make a decision on 50% of applications for non-emergency civil legal aid applications within 12 weeks and 80% within 20 weeks;

In relation to scrutinising and paying claims for work done under civil and criminal legal aid certificates the Commission will:

- make payment on 75% of direct authority claims in civil legal aid within 6 weeks;
- make payment on 75% of non direct authority claims in civil legal aid for payment within 12 weeks;
- make payment on 75% of claims for Legal Aid and Assistance (Green Form) for payment within 6 weeks;
- make payment on 75% of claims for assistance by way of representation within 6 weeks;
- make payment on 75% of claims for payment under time and line assessment in relation to Children order claims in 12 weeks and for claims under standard fee remuneration within 6 weeks;

- make payment on 75% of claims paid under Crown Court Rules (excluding claims citing exceptionality) within 6 weeks and 90% within 16 weeks; and
- make 75% of authorisations of payment for claims paid under Magistrate's Court 1992 Rules to be made in 12 weeks and 90% within 20 weeks;

In relation to making a decision on appeals that are received across all business areas, the Commission will make a decision on:

- appeals for review of classification or payment under the Crown Court Rules within 12 weeks;
- a request for exceptionality under the Crown Court Rules within 16 weeks;
- appeals against the refusal of civil legal aid within 20 weeks;
- an appeal against an assessment of Children Order work done under standard remuneration within 20 weeks;
- an appeal against other assessments of civil legal aid work done within 20 weeks; and
- make a decision on a request for reconsideration of a decision to refuse an application under the Statutory Exceptional Grant power within 8 weeks.

The Commission monitors its performance against these measures on a quarterly basis. The Commission will monitor the time taken to complete all cases in the various categories to minimise the number of applications and claims processed outside the published performance measures. During 2009/10, the Commission aims to complete the documentation of all its key business processes to ISO 9001 quality management standards.

Reform of Publicly Funded Legal Services

The maintenance of optimum service delivery performance against the challenging objectives published in the business plan was a priority for the Commission in addition to the reform of public legal services in 2008/09. The target of full implementation of the Access to Justice (NI) Order (AJO) by end of 2009 has been revised by the Board in recognition of the importance, within finite resources, of bringing forward a major legislative reform agenda while at the same time sustaining service delivery.

The targets that have been agreed for 2009/10 take account of experience of the impact of staff turnover in 2008/09 and recognises that the partnerships with the Court Service and with both branches of the legal profession are crucial in meeting timescales set for reform. The targets published here are those that can be delivered by the Commission. The Commission has been working on these elements of reform, including engaging and communicating with stakeholders for a number of years. The Commission anticipates that the key milestones in 2009/10 will be:

JUNE 2009

The Commission aims to publish proposals on a NI Funding Code for full public consultation.

OCTOBER 2009

The Commission will submit Financial Regulations to the Court Service that include the following:

- Draft Financial Eligibility Regulations
- Draft Statutory Charge Regulations
- Consultation paper
- Impact Assessment (Regulatory Impact Assessment/Equality Impact Assessment)

Subject to the approval of the Court Service to progress with this work, the Commission aims to:

May 2009

Begin working in partnership with the Law Society NI towards the publication during 2010 of a consultation paper proposing a model for registering civil and criminal legal aid practitioners in Northern Ireland that will be a pre-cursor to the statutory scheme that will operate under the AJO;

June 2009

Begin the review of payment for expert witnesses in civil and criminal legally aided cases;

July 2009

Begin the preparation for the delivery of a Remuneration Order as a separate element of reform;

September 2009

Undertake an evaluation of the Community Legal Services Pilot Project for the contract for Asylum and Immigration Legal Services currently with the Law Centre (NI);

October 2009

Prepare user-friendly guidance in respect of Funding Code/Financial Eligibility and Statutory Charge reform;

October 2009

Propose a fee for all civil business areas where no fee has been set;

November 2009

Issue Financial Regulations consultation paper for full public consultation; and

MARCH 2010

Complete with the Court Service preparation for Parliamentary/Assembly approval of proposed reforms.

In addition to these targets, the Commission will further progress research on legal need among children and young people; the Commission's research strategy will be prepared including a proposal to scope out a review of the Legal Need Survey undertaken in 2005. Within the context of the research strategy the Commission will work towards the establishment of monitoring arrangements for uptake of legal aid among Section 75 Groups. The Commission will also consider the review of arrangements for payments made to solicitors and barristers in Family Care Centre cases.

The Commission will continue to develop its project management framework in 2009/10 to assist it in managing the complexity of the programme.

The Court Service is consulting on the following reforms to criminal legal aid which are anticipated to come into effect during 2009/10:

- Magistrates' Courts and County Court Appeals (Criminal Legal Aid) (Costs) Rules (Northern Ireland) 2009;
- Very High Cost Case Management; and
- Revisions to the Crown Court Criminal legal aid remuneration.

The Commission provides support to the Court Service in these reforms and will work closely with the Court Service to implement any changes which are required from legislation which comes into effect during 2009/10. The Commission and the Court Service recognise there will be a need to introduce new performance measures following the introduction of the reforms to criminal legal aid and the Commission will continue to liaise closely with the legal profession on the communication and performance against these targets. The Commission has established a project management framework to manage and report on the progress in the reform programme.

Strengthening Governance Arrangements

The Commission is continuing to develop all aspects of its corporate governance arrangements in the light of the recommendations for a review which was undertaken in 2007. The Commission continues to face a number of fundamental challenges to its key corporate governance processes, some of which relate to the nature of criminal and legal aid legislation itself and some of which relate to continuing difficulties with the funding of legal aid expenditure. During 2009, the Commission, the Court Service and the Northern Ireland Office will conduct a joint review of the governance and delivery arrangements for all legal aid in Northern Ireland in anticipation of the devolution of policing and justice.

In relation to corporate governance, the Commission will:

- Publish the 2009/10 Business Plan by end of July 2009;
- Lay the 2003/04 and 2004/05 Annual Report and Accounts before Parliament by June 2009, the 2005/06 Annual Report and Accounts in October 2009, the 2006/07 Annual Report and Accounts in November 2009, the 2007/08 Annual Report and Accounts in January 2010 and the 2008/09 Annual Report and Accounts in March 2010;
- Develop a Corporate Assurance Framework to support financial disclosure by September 2009;
- Maintain its ISO 9001 registration during 2009/10;
- Achieve an independently assessed Annual Assurance statement of no less than satisfactory for the period 2009/10 (this will be evidenced in 2010/11);
- Develop a further level of corporate assurance to support the financial audit of the accounts by June 2009, including further assurance to be obtained from counter fraud controls developed under the counter fraud strategy adopted in 2008/09;
- Disclose the payments made to solicitors and barristers for the years 2006/07 and 2007/08 by 30 June 2009;
- Respond to all enquiries within prescribed time limits;
- Operate an effective complaints handling system;
- Reply to all requests under Freedom of information legislation within statutory time limits and report on performance in the Annual Report and Accounts for 2009/10; and

- Deliver a programme of seminars for legal firms on legal aid jointly with the Law Society NI.

The Board will remain the Commission's decision making authority and, along with its three main committees (Access to Justice, General Purposes and Audit Committee), also exercises a scrutiny and challenge function over the performance of the Commission. The Board, Commission staff and Court Service staff also participate in the range of working groups that the Commission has established, covering such areas as reform projects, communications and criminal legal aid.

The Commission continues to embed risk management in all aspects of its business. During 2009/10 we will focus in particular on strengthening information risk management procedures to ensure that personal information held by the Commission continues to be handled, stored and accessed in an appropriate and secure manner.

We will continue to work closely with our sponsoring department, the Court Service, to ensure that all shared risks to the effective delivery of access to justice are identified and, where necessary, joint processes put in place to manage, reduce or remove those risks.

Human Resources, Finance and Information Technology Support

The Commission recognises the role that corporate services plays in supporting the delivery of the high standards of service delivery and the development and implementation of the reform programme. In 2009/10 the Commission will:

- Continue developing accounting, forecasting and budgeting systems fit for purpose and develop relationships with stakeholders, including the sponsor department as part of a strategy to improve the quality of financial forecasts;
- Ensure that the financial systems support the debt recovery process through the proposed changes to the management of statutory charge;
- Develop a medium term ICT strategy to promote system stability throughout the programme of transformation of services;
- Publish the annual reports and accounts for the years 2005/06, 2006/07 and 2007/08 in line with the timetable agreed with the NIAO and the NICtS and agree a timetable for the preparation, audit and publication of the annual report and accounts for 2008/09 with the NIAO and the Court Service;
- Based on the existing HR framework, develop a human resource strategy through to 2010/11;
- Implement the initial phase of the culture change programme identified in 2008/09;
- Develop a corporate training and development strategy; and
- Implement Information Assurance policy, practices and procedures in accordance with Cabinet Office and Ministry of Justice guidelines.

Communications and Stakeholder Relations

The Commission will continue with the development and implementation of a communications strategy in support of the transformation programme and focusing on the needs of the public, suppliers of legal services and other key stakeholders. In particular it will seek to increase understanding of its work on the part of the public, public representatives and key stakeholders and ensure that potential applicants have access to information and advice about legal aid services. The communications plan 2009/10 developed to support the Commission in the delivery of this business plan can be found at www.nilsc.gov.uk/publications

Responding to this Business Plan

The Commission would very much welcome any and all comments on this Business Plan. This Business Plan can be made available in other forms upon request. You can email the Secretary to the Board with your comments at accesstojustice@nilsc.org.uk

Alternatively post your comments to us at:

The Secretary to the Board

Northern Ireland Legal Services Commission
2nd Floor, Waterfront Plaza,
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Annex: Strategic Context to Business Plan 2009/10

The business plan 2009/10 sets out the strategic context for the Commission's business up to 2010/11. This strategic context remains relevant to the business plan 2009/10 and is set out below, although the Commission recognises that this may change in the light of the wishes of a devolved administration. The Commission develops its business plans based on the framework and objectives approved by the Lord Chancellor. The business plan 2009/10 assumes that this framework and objectives will remain in place during the period of the business plan. The Commission recognises that, on the devolution of policing and justice, it will be for NI Ministers and the Legislative Assembly to decide on the strategy for legal aid in Northern Ireland.

Since its inception in November 2003 when it took over responsibility for publicly funded legal services from the Legal Aid Department of the Law Society, the Commission has been required to work in a very challenging operating environment. It has striven to sustain and improve service delivery while formulating and planning for implementation a programme of transformation in civil legal aid and accommodating proposals for major change in criminal legal aid being put together by the Court Service. At the same time it has been working to modernise its operating systems while, on the financial side, making the major changes required by the shift to resource accounting, introducing the accounting methodology based on partial

as opposed to full provision and improving its budgeting and forecasting capability. All of this, and in particular budgetary and forecasting systems, has been complicated by the unpredictability of demand for legal aid, especially in relation to high cost criminal cases and the complex arrangements for determining fees.

We describe below the drivers that we intend should inform the Commission's planning over the three years of the CSR period.

On **service delivery**, we will set challenging but achievable targets for the processing of applications and authorisations for payment and for the making of payments once authorised. We recognise that this is of critical importance in terms of:

- An efficient service to the public and those seeking access to justice;
- Contributing to an efficient justice system where avoidable delay is minimised; and
- Sustaining a network of providers of publicly funded legal services.

On **transformation and reform**, by the end of 2010/11, the Commission will have achieved the following in relation to civil legal aid:

- Implementation of a Funding Code targeting assistance where it is most needed and enhancing predictability and control from a funding perspective;
- Simplified and transparent framework for determining financial eligibility for civil legal aid;
- Improved arrangements for administering the statutory charge whereby those who recover or preserve property or gain financially from legally aided actions may be required to pay back the costs of their cases, thus making more funds available for others;
- Registration of providers of publicly funded legal services to assist clients in identifying sources of assistance and to provide the basis for developing systems for quality control and monitoring the probity of payments;
- The development of a network of civil legal service providers to include advice services as well as private sector solicitors and barristers and to encourage the development of alternative approaches to dispute resolution;
- Arrangements for dealing with money damages cases that minimise or eliminate any net cost to the Legal Aid Fund;
- The use of delegated authorities in a way that provides for quality, objective and streamlined decision-making;
- Standard fees that deliver prompt payment while assisting in predictability and control of budgets as well as in reducing the need for complex decision-making processes.

During 2009/10 the Commission will be progressing the reform programme which will see the commencement of the remaining articles of the Access to Justice (NI) Order and organising to deliver reformed services under this legislation when it is commenced.

From the perspective of criminal legal aid the Commission will have implemented a number of measures being pursued by the Court Service and designed to enhance predictability and control of expenditure, including new arrangements for handling very high cost cases and standard fees in the magistrates' courts (standard fees are already a feature in the Crown Court). The Commission is also supporting the Court Service's statutory review of the Crown Court 2005 Rules.

On **governance and management** of resources in support of the service delivery and reform objectives, by 2010/11:

- Commissioners and the Board will continue to work in accordance with the published action plan arising from the Landscape Review;

- Audited accounts and associated annual reports will be published the year following the period to which they relate in accordance with a timetable agreed with the sponsor department;
- Revised budgetary, forecasting and financial management systems will be in place to support the Commission's efforts to secure a long term stable funding environment for legal aid and meet its accountability obligations;
- A human resource framework will have been implemented as a means of enabling the Commission's most important resource, its staff, to deliver;
- A stable senior management structure, determined by the nature of the business, will be in place;
- An IT strategy will have been developed and implemented, enhancing the Commission's ability to manage its processes and deliver 'e' based services;
- The Commission will be working to a communications strategy directed towards the needs of the public, its suppliers of services and other stakeholders in the justice system, including the judiciary.



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